

# THE CONSUMER PRODUCT SAFETY COMMISSION: THE NEW CHAIRMAN'S AGENDA

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## HEARING BEFORE THE SUBCOMMITTEE ON COMMERCE, TRADE, AND CONSUMER PROTECTION OF THE COMMITTEE ON ENERGY AND COMMERCE HOUSE OF REPRESENTATIVES ONE HUNDRED SEVENTH CONGRESS SECOND SESSION

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## **THE CONSUMER PRODUCT SAFETY COMMISSION: THE NEW CHAIRMAN'S AGENDA**

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**WEDNESDAY, SEPTEMBER 4, 2002**

HOUSE OF REPRESENTATIVES,  
COMMITTEE ON ENERGY AND COMMERCE,  
SUBCOMMITTEE ON COMMERCE, TRADE AND  
CONSUMER PROTECTION,  
*Washington, DC.*

The subcommittee met, pursuant to notice, at 3:11 p.m. , in room 2123, Rayburn House Office Building, Hon. Cliff Stearns (chairman) presiding.

Members present: Representatives Stearns, Bass, Markey, and Gordon.

Staff present: Kelly Zerzan, majority counsel; Brendan Williams, legislative clerk; and Jonathan Cordone, minority counsel.

Mr. STEARNS. The subcommittee will come to order. And let me welcome all of you back as Congress starts this session. And welcome to today's hearing entitled The Consumer Product Safety Commission: The New Chairman's Agenda. As the title suggests, we welcome the new Consumer Product Safety Commission Chairman Hal Stratton to the subcommittee. We are pleased to have Mr. Stratton, a former New Mexico State legislator and attorney general, testifying before the committee this afternoon.

The Commerce, Trade, and Consumer Protection Subcommittee has not held hearings on the CPSC to date, although that certainly has not been for lack of interest on our part. Unfortunately, without a confirmed chairman, the CPSC has been legally without a quorum since May 2002, which has prevented the Commission from fully exercising its enforcement authority. For instance, it has been unable to impose civil penalties, issue subpoenas, accept settlements, mandate recalls, issue complaints or rules, adopt a budget, or even enact an operating plan.

The arrival of the chairman, Chairman Stratton, remedies the idleness at the Commission. With the new chairman now at the helm, the Commission can reengage the fight to protect our consumers and in particular our most vulnerable citizens, including children and seniors, from dangerous and defective products.

The CPSC is an important commission that has been tasked by statute with protecting the public against unreasonable risks of injuries associated with consumer products. The CPSC has jurisdiction over more than 15,000 kinds of consumer products used in and around our homes in sports, in recreation, and in our schools.

As a commission with broad consumer protection jurisdiction, the CPSC can be a very valuable bully pulpit. This office can be and

should be used as an effective means of distributing information on dangerous products subject to recall and for disseminating important consumer education information. It is not the job of the CPSC, however, to use that pulpit as a substitute for Commission action. If an individual or a company is breaking the law and putting the public in danger, the Commission should take action in regular order. Moreover, the job of the CPSC is to actively enforce the law as enacted by Congress. Thus, if the Commission believes that the Consumer Product Safety Act needs to be changed, we certainly welcome his suggestions.

I am pleased to know that Chairman Stratton is in agreement with me that the Commission's mission is to enforce the law. Indeed, one of the first actions taken by him was to impose a \$1 million civil penalty against General Electric for failing to report to the CPSC in a timely manner a defect in certain models of its dishwashers. For the protection of our citizens, it is important that companies understand the importance of complying with the law. Moreover, I agree with and support his efforts directed at enhancing the Commission's efficiency by strengthening its information-sharing activities with other Federal and State agencies. Furthermore, as noted, it is important that the CPSC explore improving its ability to communicate important consumer product safety information to the American public.

Speaking of information, I believe that a critical function of the Commission is the collection and analysis of consumer product safety data. Therefore, I urge you, Mr. Chairman, to consider a rigorous review of the Commission's data collection and review processes with the objective of improving the quality of both the data and its analysis.

Mr. Chairman, I also agree with you that as the number of consumer products that are imported grow exponentially, the Commission should explore ways of enhancing its oversight of these products. Let me suggest that one way of doing so is for the Commission to work closely with industry standards-setting organizations in general, and with international forums specifically.

As for specific issues of interest to this committee, I am sure you are aware that a number of committee members have introduced bills that involve the CPSC. I, for example, have introduced a bill calling on the Commission to set fire safety standards for cigarettes. I know my colleague, who is acting as ranking member today, the gentleman from Massachusetts, Mr. Markey, has a keen interest in that issue and also in Federal regulation of fixed-site amusement parks. I agree with my colleague that we should at least, with the Commission's input, explore the fire-safe cigarette issue; yet, I respectfully disagree with him that there is a need for Federal regulation of fixed-site amusement parks. Those sites enjoy a great safety record as evidenced by the fact that in the year 2000, out of the 320 million visits to those sites, only 125 visitors were hospitalized for injuries. State government oversight of such facilities has proven to be very effective.

And, finally, I would like to bring to your attention two other bills. The first was introduced by the distinguished ranking member of this subcommittee Mr. Towns, who is not with us today, from New York, and my colleague from Illinois on this side Mr.

Shimkus, addressing children's sleepwear. The second piece of legislation which I support was introduced by my colleague from New Hampshire Mr. Bass giving the CPSC jurisdiction over a brand new innovative personal mobility device called the Segway.

The CPSC has a full plate of issues before it, and I am confident, Chairman Stratton, you will address each of these issues with the same professionalism and experience properly fitting the post. So I thank you very much for accepting the position—and I mean that sincerely—and thank you for testifying this afternoon before the subcommittee, and I look forward to working with you in the months ahead.

[The prepared statement of Hon. Cliff Stearns follows:]

PREPARED STATEMENT OF HON. CLIFF STEARNS, CHAIRMAN, SUBCOMMITTEE ON  
COMMERCE, TRADE, AND CONSUMER PROTECTION

Welcome to today's hearing titled "The Consumer Product Safety Commission: The New Chairman's Agenda." As the title suggests, we welcome the new Consumer Product Safety Commission (CPSC) Chairman, Hal Stratton, to the subcommittee.

We are pleased to have Mr. Stratton, a former New Mexico state legislator and Attorney General, testifying before the Committee this afternoon.

The Commerce, Trade, and Consumer Protection Subcommittee has not held hearings on the CPSC to date, although that certainly has not been for lack of interest. Unfortunately, without a confirmed Chairman, the CPSC has been legally without a quorum since May 2002, which has prevented the Commission from fully exercising its enforcement authority. For instance, it has been unable to impose civil penalties, issue subpoenas, accept settlements, mandate recalls, issue complaints or rules, adopt a budget, or even enact an operating plan. The arrival of Chairman Stratton remedies the idleness at the Commission. With a new Chairman now at the helm, the Commission can re-engage the fight to protect consumers, and in particular our most vulnerable citizens, including children and seniors, from dangerous and defective products.

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As a Commission with broad consumer protection jurisdiction, the CPSC can be a valuable bully pulpit. This office can be, and should be, used as an effective means of distributing information on dangerous products subject to recall, and for disseminating important consumer education. It is not the job of the CPSC, however, to use that pulpit as a substitute for Commission action. If an individual or company is breaking the law and putting the public in danger, the Commission should take action in regular order. Moreover, the job of the CPSC is to actively enforce the law as enacted by Congress. Thus, if the Commission believes that the Consumer Product Safety Act needs to be changed, we certainly welcome those suggestions.

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Moreover, I agree with and support your efforts directed at enhancing the Commission's efficiency by strengthening its information sharing activities with other federal and state agencies. Furthermore, as you have noted, it is important that the CPSC explore improving its ability to communicate important consumer product safety information to the American public. Speaking of information, I believe that a critical function of the Commission is the collection and analysis of consumer product safety data. I would urge you, Mr. Chairman, to consider a rigorous review of the Commission's data collection and review processes with the objective of improving the quality of both the data and analysis.

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The CPSC has a full plate of issues before it and I am confident that Chairman Stratton will address each of these issues with the professionalism and experience properly befitting the post. Thank you Chairman Stratton for testifying before this subcommittee today, and I look forward to working with you into the future.

Mr. STEARNS. With that, I welcome the ranking member, the gentleman from Massachusetts.

Mr. MARKEY. I thank the gentleman very much, and I thank the gentleman for conducting this very vigorous schedule. We are the first subcommittee in the House of Representatives to have a hearing. I know that it pleases everyone in the audience that they are the first hearing after the break. You can see the incredible enthusiasm that they have for being the first people to make the adjustment from the summer into the fall schedule, and I want to congratulate you for providing that kind of leadership.

And to you, Mr. Chairman, welcome to Congress.

Mr. STRATTON. Thank you.

Mr. MARKEY. It is a wonderful institution. It is one that is not as fully appreciated by independent agencies as it could be, but only because there is never a full appreciation for how much we want to work hand in glove with independent agencies in order to accomplish more good for the public. But we congratulate you. It is a high honor, indeed, that you now hold, a great responsibility indeed.

The CPSC was, in fact, established pursuant to the Consumer Product Safety Act, which streamlined and consolidated Federal safety regulatory activity relating to consumer products within the Consumer Product Safety Commission. In my opinion, this agency is a huge government success story. With a limited budget and resources, it has been responsible for actions that have saved the lives of countless Americans and protected many more from serious injury. The CPSC is the government agency that makes sure that cribs, toys, and other products in our homes or around schools or in recreational areas are not hazardous and recalls them when they are hazardous. The CPSC oversees the safety of 15,000 different kinds of consumer products. This is an agency with a long history of safeguarding the public and particularly children from commercial products that cause harm or threatens the safety of children.

This hearing is quite timely for us because it gives us an opportunity at the outset of the new chairman's tenure to ascertain his agenda and to identify ways in which the agency can perform its



functions better and how Congress can supplement the authority and resources of this Commission so that it can do even more good than it has in the past.

I have introduced three bills that address certain CPSC issues. The first, H.R. 1488, would restore the jurisdiction of the Consumer Product Safety Commission over fixed-site roller coasters and amusement park rides for safety purposes. In 1999, 4 people died in 5 days at 3 different amusement parks; yet, because of a special interest loophole in our consumer product safety laws, the CPSC was and is totally powerless to do anything about it. The Nation's chief product safety watchdog cannot even send an investigator to find out what happens when people die on these machines. The Consumer Product Safety Commission cannot make safety recommendations. They cannot ensure that every other park with the same or similar ride is even informed of the causes of accidents, and it cannot take any preventative action. Meanwhile, every time a park builds a new ride, it is faster, more thrilling, closer to edge of safety than the last one.

According to CPS data gleaned from hospital emergency rooms, serious injuries on fixed-site roller coaster rides have soared 95 percent since 1995. Still we do nothing. Roller coasters are huge, complicated machines that hurdle children through space at 100 miles per hour with the force of the space shuttle. My bill would give the Consumer Product Safety Commission the same jurisdiction over such rides that it currently has over bicycles or cribs or other devices that, in fact, are much less dangerous and move at a much slower speed than roller coasters do.

The second bill, the John Joseph Moakley Memorial Fire Safety Cigarette Act of 2002, requires the Consumer Product Safety Commission to establish a fire safety standard for cigarettes to reduce the risk of ignition presented by cigarettes. Every year almost 1,000 lives are lost and \$400 million in property damage occurs due to cigarette fires that could be prevented with current technology. This legislation is the first step in reducing the loss of human life and property and the number of fires firefighters must respond to caused by careless handling of cigarettes.

And, finally, I have introduced, along with Mrs. Capps and other committee colleagues, the Consumer Product Risk Reporting Act. This legislation is designed to remedy deficiencies in the Commission's authority by eliminating the cap on civil penalties for violations of product safety laws, increasing the penalty for a knowing and willful criminal violation, and giving the Consumer Product Safety Commission the authority to overrule a remedy chosen by a manufacturer to address a defective product in a product recall.

It is worth noting that during Chairman Stratton's first week in office, the Commission fined General Electric \$1 million for 3.1 million faulty dishwasher switches. Now, that fine is a paltry sum for a company of G.E.'s size and for a violation of such significance. Austin Powers might think that \$1 million is a huge sum, but in 2002 that fine simply doesn't serve as a deterrent to a company the size of General Electric, and Congress must act to remedy the current cap to give you, Mr. Chairman, the sufficiently strong deterrent power which you must—which you need in order to scare these companies, in many instances, into doing the right thing be-

cause of their fear, because of the paranoia that your Commission can induce by the sure and certain knowledge that you are not limited in the amount of penalty which you can impose upon these firms that are creating, in fact, conditions that are very dangerous not only to children, but to every other adult in our society.

I thank you, Mr. Chairman, for calling this very important hearing. And, once again, I welcome you to the national public debate, Chairman Stratton.

Mr. STEARNS. And I thank my distinguished colleague from Massachusetts.

And the gentleman from Tennessee.

Mr. GORDON. Mr. Chairman, let me just say that I have enjoyed your opening comments, both, and that they have been informative. [Additional statement submitted for the follows:]

PREPARED STATEMENT OF HON. W.J. "BILLY" TAUZIN, CHAIRMAN, COMMITTEE ON ENERGY AND COMMERCE

Thank you, Mr. Chairman, for calling this important hearing. I am pleased to welcome the new Chairman of the Consumer Product Safety Commission (CPSC), Hal Stratton, to the Committee. As the Committee on Energy and Commerce has jurisdiction over all consumer affairs and consumer protection issues, we are pleased to have you here today to describe your agenda for the future of the CPSC.

Although a small agency in size, the CPSC has a remarkably large responsibility to help keep American consumers safe from defective and dangerous products. As a litigator and former Attorney General for the state of New Mexico, you will find yourself at home heading an agency dedicated to protecting the American consumer.

In reviewing your testimony, a couple of points caught my attention. Specifically, I hope that you will succeed in your mission to increase recall effectiveness. There are a number of ideas that have been floated to increase the percentage of consumers responding to recall notices. One in particular, to require manufacturers to include a postage-paid response card with each product, is one that should be justified on the merits. The CPSC should study this issue carefully, and any action should be justified by the data.

Additionally, you note in your testimony that you want to enhance the consumer education information supplied by the Commission. I wholeheartedly support this goal. An expensive and time-consuming product recall is not the only way to ensure consumer safety. Education and outreach programs aimed at the consumer should be the very first line of defense. Not only can such programs help consumers make informed product decisions, but can also help people use those products in safe and responsible ways.

I hope that we can have an open dialogue regarding the future needs of your Commission and the goals of this Congress. Thank you, Chairman Stratton, for coming before this Committee today and I look forward to hearing your testimony.

Mr. STEARNS. With that, Mr. Chairman, we welcome you for your opening statement.

**STATEMENT OF HAROLD D. STRATTON, JR., CHAIRMAN, U.S. CONSUMER PRODUCT SAFETY COMMISSION**

Mr. STRATTON. Thank you, Mr. Chairman. I appreciate the opportunity to be here today. It is an honor to come talk here, and it is, quite frankly, a lot of fun. So I appreciate you asking me over. I have to note that you have been asking me to do this for a while, back through earlier this year, and I apologize for taking so long to get confirmed, but it did take a little longer than we expected, and I will try to do better next time. I wasn't confirmed until July 25, and I was sworn in on August 2. That is when the Commission then resumed its quorum, which, as you indicated, it lost. I believe actually on May 2 was when the quorum was lost.

I will also point out, however, that notwithstanding the fact that a quorum existed up until the 1st of May, that there was no chairman at the Commission, which is really the administrative person running the Commission, since last November. So it has been difficult. And I must say, based upon what I have seen since I have been there, they have done a pretty good job over there getting along without a chairman and without a quorum.

And I must say, when it comes to the G.E. Settlement, as the Congressman pointed out, it came in my first week, so the staff has to be given a lot of credit for continuing to work on that, along with the Briggs & Stratton settlement that we also had that same week and a couple of other recalls.

I have filed a written statement for the record, and I believe I have provided you with my Senate testimony and, if not, my written statement in the Senate. And rather than read that, I think I will just highlight that for you, and then we can get on with whatever questions you have.

Once again, I have been there—although I was sworn in on August 2, I have only been in my office since last Wednesday, so that was my first day. It took a little—it turned out to be a little more difficult to get the family moved from New Mexico and out to Maryland than I thought it would, so it took a little while. We were working—I will say, our staff was in and working.

I told the Senate that I didn't have an agenda for this position, and what I meant by that was not what we are talking about here today. What that meant was I don't have any political agenda for this position. The agenda that I have is to get as many consumer products that cause an unreasonable risk of death or injury to consumers off the market as quickly as possible in accordance with the Consumer Product Safety Act as passed by Congress.

There is a number of ways to do that. You know what they are; they are in the act. They are by recalls. They are by the penalties that the Congressman has talked about, we have got injunctive power, and also by setting standards, voluntary and mandatory.

So that is what our agenda is, pure and simple, and I find it, frankly, fairly easy to determine what Congress's intent is by looking at the statute. And I—I don't know whether that comes from being a lawyer, a former legislator, a former attorney general, or maybe all of those put together, but it is pretty clear to me that this Congress wants unsafe consumer products out of the market regardless of what the other considerations are, other political considerations or any other type of considerations. And so we understand what you want, and it is going to be our intent to be very tough on those who knowingly or even negligently without remedying it put these kind of products in the market.

By the same token, I would hope—I hope our staff, if they listen to our direction, will work very closely with those companies out there that are willing to work with us and cooperate and do recalls and do the right thing. We plan to work with them and try to get those products off the market as quickly as possible. The goal is not necessarily to be punitive and not necessarily to penalize people for the purpose of getting headlines in the newspapers, but first and foremost to get the products off the market and get them out of the hands of consumers who they might harm. Now, that doesn't mean

you don't go forward and penalize people for the deterrent reason or for whatever reason, but that is what our No. 1 goal is, and that is it pure and simple, and that is the agenda.

I did mention, and I will just mention them here, two or three areas that I thought that we would work on kind of outside of that statutory agenda or as part or as a subpart of that agenda. The first one is better communication with the agencies. As you mentioned, Mr. Chairman—actually, you set out a good statement of my agenda, but I will just kind of reiterate and highlight what we are planning on, and that is better cooperation amongst agencies. We have seen how important that is with our agencies; I have seen it in the past in the law enforcement area, and I have seen what happens when law enforcement agencies cooperate, and I have seen what happens when they don't cooperate. And I can tell you, it is a lot better when they cooperate. And we are going to do our very best to cooperate with other Federal agencies of the Federal Government and State and local jurisdictions to get as much information-sharing and as much information as we can have.

We have recently signed an agreement with Customs to try to get more information from them, for them to be able to provide us more information. So we are hoping that that will be a step in that direction to obtain more information from Customs on imported products.

Also, the thing I hear from everybody, particularly my family I might add, is how are we going to get notified about these recalls? How are we going to get information from the Commission? What is the process to do that? What, can't you do it better?

I would suggest that if it could be done a whole lot better, they probably would have done it by now. I don't think there is any will not to find a good way to notify consumers over at the Commission. I think they are doing what they can, and I think the best vehicle that we have right now is the media. And I today am not here to tell you that I have some big grandiose plan that I have managed to derive to increase that contact, but that is going to be a No. 1 goal, because no matter how good our information is, if we don't get it out to consumers, it doesn't make a lot of difference. So, that is No. 2. And we are open to all suggestions on that. Once again, we don't have any prearranged agenda, but we do think it is a very good function and something that needs to be improved.

Finally, as I indicated in regard to the Customs agreement, we do want to work more on imported products. Most of the toys and things like that are made overseas, so we need to make sure that we cover that subject and that we have an ability to determine products that are coming into the country that do not meet the provisions of the CPSA. And we also, I think, need to maybe—since we do have a global market now, that we need to do a better job at coordinating with other countries and harmonizing our laws with other countries and working with them in the future. So that, Mr. Chairman, that is generally a synopsis of what we plan to do.

I want to say to you, Mr. Chairman, I want to thank you for your courtesy in meeting with us today. I personally, along with anybody on my staff, am available at any time to meet with Congress. We want to do this the way Congress wants us to do it, and we look forward to working with you toward that goal. Thank you.

[The prepared statement of Harold D. Stratton, Jr., follows:]

PREPARED STATEMENT OF HAROLD D. STRATTON, JR., CHAIRMAN AND COMMISSIONER,  
CONSUMER PRODUCT SAFETY COMMISSION

Mr. Chairman and members of the committee, it is an honor to appear before you today as Commissioner and Chairman of the U.S. Consumer Product Safety Commission (CPSC). I welcome the opportunity to appear before your committee.

By way of introduction, I would like to begin by telling you about myself.

I was born in Muskogee, Oklahoma and reared in Oklahoma City. My father served in the 8th Air Force as a B-17 pilot in World War II and subsequently practiced law for over 35 years. My mother, sister, and her family, continue to live in Tahlequah, Oklahoma, the capital of the Cherokee Nation, of which I am an enrolled member.

I attended the University of Oklahoma where I received degrees in geology and law. Subsequent to graduating from law school, I served my Army ROTC commitment on active duty in the United States Army. Thereafter, in early 1977, I permanently moved to Albuquerque to begin my career in the private practice of law and to live in the varied and diverse culture and environment that is New Mexico.

In 1978, I was elected to the New Mexico House of Representatives where I served four terms. Among other positions, I served as chairman of the Judiciary Committee, vice chairman of the Energy and Natural Resources Committee—and, one term as a member of the Transportation Committee.

In 1986, I was elected to the office of New Mexico Attorney General where I oversaw the state's only dedicated consumer protection agency and the state's largest white collar crime prosecution unit.

Since the state constitution limited me to one term as attorney general, I reentered private law practice in Albuquerque in 1991.

During my career, I have been honored to argue and handle cases before a number of courts, including the United States Supreme Court.

Throughout my career, my highest priority has been to work and to serve my community with honesty, integrity, impartiality and fairness, toward my employees, other state executive and legislative officials, my colleagues in the legal community and, most importantly, toward the people I have served.

As I stated at my confirmation hearing, it is my sincere commitment to serve the people of this country with integrity, fairness, and with independent unbiased judgment. This is the way I approached my role as a consumer advocate in New Mexico and I look forward to continuing this role at the national level.

On a personal note, my wife Theresa, and I are the proud parents of two daughters, Alexandra, age 7, and Claire, who is 3. As parents, we fully appreciate the importance of consumer product safety for all American families. As a father of two young children, I can assure you that I think about product safety every day.

The Congress has vested CPSC with the power to affect the safety of every consumer in America. The commission's actions have saved many lives; prevented many injuries; substantially improved the safety of countless consumer products; and heightened the public's awareness and knowledge about consumer product safety.

As a former state legislator, I very much appreciate the important role this committee plays in consumer protection. My job is to enforce the laws that you pass. Consequently, I would welcome a continuing dialogue with you to insure that the commission understands the committee's positions and provides the committee with the information it needs to effectively perform its legislative responsibilities. My staff and I will make every effort to be available to you in a formal or informal setting. I hope that the committee members will let us know what they are thinking on these important issues.

In the short time that I have been on the job, I have had the opportunity to work closely with many of the CPSC staff, and have been impressed with their professionalism. A transition time is always challenging, but it is also rewarding.

Although I have been on the job in this position only a few days, I would like to respectfully suggest a few general areas that I believe are important to the success of the CPSC's mission.

First, it is our intent to administer and carry out the mandate of the Consumer Product Safety Act as written and in accordance with the intent of congress. This means eliminating from the market consumer products that create an unreasonable risk of injury or death.

With respect to unreasonably dangerous products, I encourage companies that discover such products that require action to notify the CPSC immediately, as the law

requires. We will do everything we can to work with them to remedy the problem in a way that protects the public.

Companies that withhold such information, and who do not do as the law requires, will be dealt with accordingly. The CPSC exists to get dangerous products out of the market place. The public takes it seriously, I know that you take it seriously, and those who fail to disclose unreasonably dangerous products will find out we take it seriously at the CPSC.

In the management area, I intend to explore ways where the commission could benefit from increased communication with other federal and state agencies. I believe improved information sharing between these agencies would enhance CPSC's capabilities and maximize the commissions' limited budgetary resources. CPSC's mission often complements that of other agencies such as the Department of Justice, Bureau of Alcohol, Tobacco, and Firearms, and the Environmental Protection Agency, to name a few. As a former state attorney general, I have seen both good and bad interagency communications. I know from experience that agencies get more done with less when they communicate well with other agencies working on similar matters, and build good working relationships.

In addition, I believe it is very important to strengthen and enhance the commissions consumer education and information outreach programs. To that end, we intend to work hard on increasing the effectiveness of consumer product safety education. Educating consumers as to product related hazards is an important component of the CPSC's mission.

The problem here is not a lack information. we have plenty of that. The commission implements and participates in numerous recalls during the course of a year, some big, some small. The problem is getting information to the public, and, often, getting people who are distracted by the hustle and bustle of day-to-day life to pay attention to it. I expect the CPSC to continue to develop more effective ways of communicating our message to the public.

I also believe it is essential to continue to enhance the commission's oversight of imported products. CPSC's responsibilities continue to grow dramatically as more and more consumer products enter the United States. Working with appropriate government agencies, I would like to review existing procedures and if warranted, attempt to improve them.

Many imported products do not meet our safety standards. There can be no question that the most efficient way to protect the public against dangerous imported products is to stop them at the border.

Once again, Mr. Chairman and members of the committee, I am honored to be here. I am prepared to respond to your questions.

Mr. STEARNS. Thank you, Mr. Chairman.

And I will just start out with some of the questions that I have. I think you touched on perhaps three of the things that we are concerned about one is information-sharing between all the government agencies; and, two, just as your wife said, how is she going to get notified when there is a discrepancy or there is a problem with the product; and, three, your idea of what are you going to do about this global market, and how are you going to ensure that Americans have products that are safe. That is a full agenda for you.

And I think the thing I was—my first question was—is going back to what your wife said to you. Then there does need to be a better notification system. Now, should you go on the Today Show? Should you somehow try to get evening news coverage? I mean, that is what you will have to decide. But I think there is a certain element of this media side to get it out, because the wheels of government grind very slowly, and for your wife to get notified about a product is going to take a long time. And so I think you are going to have to—with your experience as attorney general, you were elected to attorney general, you served in the statehouse for 7 or 8 years, you obviously had that skill. So I would urge you to be proactive on this basis. And I am not sure that just depending

upon the government and its wheels to grind out this information is going to be enough.

And, you know, that is what I would say to you. You have got to convince Congress and everybody that you are going to be proactive here, because your wife and mine want to know what is happening and not wait until they continue to buy a poor product.

Mr. STRATTON. Mr. Chairman, I only say that I hope I don't have a problem with my wife, because if she isn't the first to know, then I have bigger problems at home than I have down at the Commission.

I was on the Today Show my first week in office and some other shows, and I had made the comment when I was being sworn in at the Commission with the employees that I was going to be on the job 24 hours a day and 7 days a week, and they took me up on it. They came over to the house at 2:30 in the morning in Albuquerque, and I had to get up at 1:30. And so I decided that if I was going to make those comments, I had to do that. So I have already done that, and I have indicated I am going to be available to do that any time, any place.

And I can tell you that I have been very impressed with the public affairs staff at the CPSC, to get sworn in on a Friday and already have a round of things going on, those shows the following Wednesday or Thursday, was pretty quick.

But I understand what you are saying. I think that is very important. I was, quite frankly, surprised at the number of people that day that saw me. I attended an event with the Vice President that same day, and I was surprised at the number of people that actually saw it. So there is no question that it is quite effective, and I intend to do as much of that as the media will allow.

The one other thing I would mention, and I would ask particularly the print media to help us on this, we need—when we send them notice of the recall, we need them to print them. And we would ask that those media outlets have a special column or at least a special procedure that once they get those, that recall information—and they are going to get it from us immediately—that they run it.

You might think that is happening already, but it is not. There are a number of very important newspapers in this country that don't run that right away, and I know my newspaper in Albuquerque, even though we got it to them the day—I think the day before we announced it, they didn't run it for a week or two. So, I am going to ask all of these media outlets to try to cooperate with us, and run that information prominently and as quick as they will do it.

Mr. STEARNS. You mentioned in your opening testimony that you are going to get tougher on the safety of imported products, and you mentioned the global economy that we face. And I guess my question is, to you, do you have any specific plans perhaps that are new to your agency on how to get this goal realized to protect Americans from products that come from the Pacific Rim or from the North American continent or the European Union in which we do not have complete jurisdiction over, and yet these products come in here and consumers are using them in their day-to-day activities and finding that they are a problem and they are not safe? And so

I think that is another area where you could help give us some assurance that you intend to be aggressive on this and to provide assurance to the American public about safety and global products.

Mr. STRATTON. Mr. Chairman, I hope we have taken the first step toward doing that by signing this agreement with Customs. The best way I know of of interdicting the illegal products is to hit them right at Customs and to be notified by Customs. So if we can get a relationship going with them to help then cooperate with us, that will go a long way toward achieving that goal that you just mentioned.

The other thing we need to do is we need to be just as tough on importers as we are on domestic companies who violate the act. And if we can't get to the companies in China or Europe or wherever they happen to be, we can certainly get to their importers and distributors here, and that is where I think we will have to begin the enforcement process.

Mr. STEARNS. Mr. Chairman, do you have any way to get to the companies in, for example, China or India? I mean, these are companies, particularly in China, which I am not sure that you could make any kind of impact. So, how do you handle that?

Mr. STRATTON. Mr. Chairman, I frankly don't know the answer to that question, but I suspect we can't get to them directly, and that is why I say we have to—they all have distributors here, and they all have importers here who handle that here on this side, and then they all have retailers. So I think we can get to them that way, and if they don't have distributors or importers doing it, then they are not going to get products in the country. They can't do it directly.

But I must say, you have got me on that one. I will have to get that answer for you and get back with you.

[The following was received for the record:]

Joint Activities with U.S. Customs as of September 19, 2002

Headquarters contacts: Carol Cave, Field Operations X 2197  
Alan Schoem, Compliance, X1349

- CPSC and U.S. Customs have been working cooperatively since 1987 to prevent the importation of goods that fail to meet the CPSC standards for safety.
- The overall objective is to establish and implement procedures for U.S. Customs and CPSC to examine consumer products at the port of entry and seize or otherwise prohibit entry into U.S. commerce of items found not to comply with CPSC regulations.
- Since the partnership was formed in 1987 a total of 504 million units with a retail value of \$210 million were prevented from entering the U.S. Marketplace.
- CPSC and Customs have seized nearly \$2.8 million worth of non-complying consumer products during fiscal year 2002, including nearly \$2 million worth of potentially dangerous fireworks, lighters and bicycles. As a result approximately 60 million (59,844,369)-dangerous consumer products never reached store shelves. (Specific charts are attached)
- CPSC has laid the groundwork for an ambitious import surveillance program that both improves our ability to identify potentially dangerous products and which is expandable throughout the region.
- We believe that government becomes more effective when its agencies combine to enforce the law.
- CPSC investigators train customs inspectors on how to identify potentially defective products
- Non-complying, misbranded or banned products stopped at the ports can have one of the following occur:



- Recondition to comply with U.S. Standards- this can include proper labeling, removing a part or repair. CPSC investigators verify the reconditioned product.
- Re-export to the country of origin or a third country after notice to CPSC
- Destroy
- Recently U.S. Customs has been focusing on homeland security. As a result, they have not been able to work with CPSC on interdicting products that violate CPSC Safety standards. It is unclear whether this is a temporary phenomenon or will be long term.
- CPSC has signed an updated MOU with Customs that once signed by Customs will allow certain CPSC headquarters staff access to certain Customs databases. This access will give CPSC the ability to identify products being shipped to the U.S. and entering the U.S. This will allow CPSC investigators will have the ability to sample products to assure they comply with CPSC safety rules before they are distributed to U.S. consumers.

Last Update                      September 19, 2002

Year	FY 2002	
Product	Data	Total
Art Materials	Sum of Shipments Sampled	11
	Sum of Sampled Total Units	440,655
	Sum of Seizures /Detentions	3
	Sum of Seized Units	438,192
	Sum of Retail Value	\$237,384
Bicycles	Sum of Shipments Sampled	46
	Sum of Sampled Total Units	33,961
	Sum of Seizures /Detentions	22
	Sum of Seized Units	21,293
	Sum of Retail Value	\$956,965
Cigarette Lighters	Sum of Shipments Sampled	135
	Sum of Sampled Total Units	1,447,902
	Sum of Seizures /Detentions	107
	Sum of Seized Units	783,040
	Sum of Retail Value	\$638,085
Fireworks	Sum of Shipments Sampled	339
	Sum of Sampled Total Units	57,420,368
	Sum of Seizures /Detentions	31
	Sum of Seized Units	1,952,314
	Sum of Retail Value	\$336,147
Sleepwear	Sum of Shipments Sampled	0
	Sum of Sampled Total Units	0
	Sum of Seizures /Detentions	0
	Sum of Seized Units	0
	Sum of Retail Value	\$0
Toys	Sum of Shipments Sampled	66
	Sum of Sampled Total Units	220,230
	Sum of Seizures /Detentions	33
	Sum of Seized Units	106,810
	Sum of Retail Value	\$329,556
MultiPurpose Lighters	Sum of Shipments Sampled	15
	Sum of Sampled Total Units	281,253
	Sum of Seizures /Detentions	12
	Sum of Seized Units	255,137
	Sum of Retail Value	\$339,483
Total Sum of Shipments Sampled		612
Total Sum of Sampled Total Units		59,844,369
Total Sum of Seizures /Detentions		208
Total Sum of Seized Units		3,556,786
Total Sum of Retail Value		\$2,837,620

Summary Import Surveillance Activities						
			Last Update	September 19, 2002		
Year	Product	Shipments Sampled	Sampled Total Units	Seizures /Detentions	Units	Retail Value
FY 1988	ALL	1,755		856	85,072,658	\$12,661,667
FY 1989	ALL	2,186		956	133,740,299	\$18,484,527
FY 1990	ALL	1,457		679	56,059,943	\$12,291,857
FY 1991	ALL	956		487	14,880,846	\$8,469,240
FY 1992	ALL	1,181		442	42,816,358	\$14,504,361
FY 1993	ALL	1,299		632	29,591,787	\$14,524,117
FY 1994	ALL	941		428	22,683,533	\$5,160,466
FY 1995	ALL	988		338	13,494,061	\$7,671,659
FY 1996	ALL	894	29,888,499	404	13,547,104	\$5,378,885
FY 1997	ALL	975	112,079,257	288	16,164,793	\$5,538,882
FY 1998	ALL	1,092	40,627,198	391	20,264,290	\$67,702,732
FY 1999	ALL	1,130	88,406,803	497	25,646,492	\$13,023,363
FY 2000	ALL	775	62,060,565	254	11,213,915	\$9,528,343
FY 2001	ALL	773	149,308,418	362	14,864,640	\$11,806,743
FY 2002	ALL	612	59,844,369	208	3,556,786	\$2,837,620
Grand Total		17,014	542,215,109	7,222	503,597,505	\$209,584,462

Mr. STEARNS. I am going to ask you a couple of questions that perhaps—and I am very understanding. You have been on the job since Wednesday, and I think you are doing a grand job, I mean, and it is going to take a long time to understand all the issues. But I present these because they are in the public forum, and I think under this kind of hearing that we should ask some of these questions just to lay them out.

The CPSC has spent over \$7 million and at least 6 years of significant staff time studying the issue of flammability standards for children's sleepwear. And I guess the question is after all this time and all this money, has this issue been resolved? Has the CPS staff relied on good data, or it has taken so long because the data is flawed? But perhaps this is not a question that you can answer in this short time, but this is—certainly long-term Members of Congress have concern. We hear about this issue continuing to go on, so I ask you that.

Mr. STRATTON. Mr. Chairman, that is a good question. I checked right before I came over here today to see whether that had been resolved or we had gotten the latest information from staff on it. We had not. All I can say is it seems like a long time, to me. And I don't know why it hasn't been resolved, but it is something we are going to get resolved as soon as we legally and procedurally can. But I can't—

Mr. STEARNS. I understand.

Mr. STRATTON. I can't tell you why it has taken 7 years to do anything.

Mr. STEARNS. My time has expired, and if the Members like, we will have a second round. But now I yield to the ranking member from Massachusetts.

Mr. MARKEY. Thank you, Mr. Chairman, very much.

One of the issues in the news very recently has been the rapid growth of West Nile disease across our country and the number of fatalities that have been identified related to this mosquito-borne disease. And many of the reports in the media indicate that children and senior citizens are the ones that are most particularly vulnerable to that disease.

Former CPSC Chairwoman Ann Brown has recently spoken out about the concern that many parents may overreact to the prospect of their children getting West Nile disease by utilizing bug spray and insect repellants containing DEET. Now, DEET is actually not recommended nor is it considered to be safe for young children, although adults can use it in moderate doses. DEET actually is toxic to young kids and should not be used for infants under 2 years of age and can sometimes cause seizures in toddlers. For kids over 2, repellent containing no more than 10 percent DEET is recommended, and parents are encouraged to apply the repellent around the child's eyes, avoiding the mouth and the eyes.

Given the concern about West Nile, many parents will be purchasing insect repellent products for their homes and families. Do you believe that the CPSC has any role in this area in ensuring that such products are clearly labeled, that parents are warned and are cognizant of the danger of DEET to young kids? In fact, as we know and we watch on the news in the evenings, in many of these areas we see children being bathed in insect repellent by their par-

ents in order to protect them. Have you looked at this issue of DEET, and is it something that you believe comes under the jurisdiction of the CPSC in terms of your responsibility to warn parents about the dangers?

Mr. STRATTON. Mr. Chairman, we have not looked at it that I know of. This is the first I have heard of this. Ms. Brown hasn't called us about this, as far as I know, so I don't think she has notified about her concern about this, nor do I believe this is one I have seen in the media, and so this is the first I have heard about it. It is something we will be happy to look at without coming to a legal conclusion about whether we have jurisdiction over that. I mean, if it is a consumer product and it is not covered by some other agency or excluded by the act, we have jurisdiction.

On that particular item, I don't know. We will be happy to take a look and get back with you immediately and let you know what we think.

Mr. MARKEY. And so will you give me a call?

Mr. STRATTON. Absolutely.

Mr. MARKEY. Okay. I appreciate it.

Now, on the next issue I need your help, Mr. Stratton. The amusement park industry has an admirable safety record in general, but just as any other industry that you regulate, accidents do happen. Right now if a child is hurt on an amusement park ride, the safety response of that accident is comically convoluted. If it turns out that the ride was mobile, that is, not permanently fixed to the land it sits on—that is, one of these traveling carnivals that moves from city to city, from State to State—then the CPSC has full authority to investigate, order safety changes, and share what it learned with other similar ride owners and ride manufacturers. In the last 5 years, according to emergency room data, injuries on those rides went up 34 percent.

But if it turns out that the ride was bolted down to the site, well, that is a different story for an injured child. In its wisdom, Congress has declared that if the ride is fixed, that is, can't be moved, as one of the giant roller coasters or giant rides, then the Consumer Product Safety Commission cannot do its job. It has no jurisdiction. In the last 5 years, according to CPSC's emergency room data, injuries on these fixed-site rides rose a whopping 93 percent, 35 percent for the mobile small rides that go State to State, 93 percent increase in emergency room visits over a 5-year period for these fixed-site rides.

My question is, does that make any sense to you, Mr. Chairman, or do you agree that it would be preferable for you to have uniformed regulatory oversight authority so that all amusement park riders receive equal protection regardless of whether it is a fixed-site or a mobile ride?

Mr. STRATTON. Mr. Chairman, after being on the job since Wednesday, on the details of that particular issue I don't really feel qualified to give you advice on that today, but it is something we would be happy to look at and consider and get back with you on that as well.

I will say this: That right now my general feeling is that anything you here in Congress pass and say we should regulate, we are going to regulate; and anything you say we shouldn't regulate,

we are not going to regulate. And that is your decision, your prerogative, your responsibility to do that. And as far as expanding or contracting the jurisdiction position of the Commission, I at this date don't have any real opinion on that.

Mr. MARKEY. Thank you. Will you give me a call on that one?

Mr. STRATTON. Yes, sir.

Mr. MARKEY. Okay. How long do you think it will take here?

Mr. STRATTON. When do you want me to call you?

Mr. MARKEY. The end of next week.

Mr. STRATTON. Sure.

Mr. MARKEY. Is that enough time?

Mr. STRATTON. Sure.

Mr. MARKEY. Is that enough time?

Mr. STRATTON. Sure.

Mr. MARKEY. Okay. Thank you.

Mr. Chairman, I would like to ask that we include in the record an article from the Annals of Emergency Medicine, January 2002, titled Amusement Park Injuries and Deaths. As you know, since 1999, I have sought a public health and safety limit on these issues, and I would like to have it included in the record at this time.

Mr. STEARNS. By unanimous consent, so ordered.

[The information referred to follows:]

## CONCEPTS

## Amusement Park Injuries and Deaths

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Media coverage of amusement park injuries has increased over the past several years, raising concern that amusement rides may be dangerous. Amusement park fatalities and increases in reported injuries have prompted proposed legislation to regulate the industry. Since 1979, the medical literature has published reports of 4 subdural hematomas, 4 internal carotid artery dissections, 2 vertebral artery dissections, 2 subarachnoid hemorrhages, 1 intraparenchymal hemorrhage, and 1 carotid artery thrombosis with stroke, all related to roller coaster rides. In this article, we review reports of amusement park injuries in the medical literature and Consumer Product Safety Commission data on the overall risk of injury. We also discuss the physics and the physiologic effects of roller coasters that may influence the type and severity of injuries. Although the risk of injury is low, emergency physicians are advised to include participation on thrill rides as part of their history, particularly when evaluating patients presenting with neurologic symptoms.

[Braksiek RJ, Roberts DJ. Amusement park injuries and deaths. *Ann Emerg Med.* January 2002;39:65-72.]

## INTRODUCTION

The US Amusement and Theme Park Industry continues to grow in popularity. Amusement parks reported a record \$9.1 billion in revenue during 1999. In 1999, the 450 fixed-site amusement parks in the United States accommodated approximately 309 million visitors from around the world.<sup>1</sup> Amusement parks owe their popularity, at least in part, to roller coasters, which date back to the 15th-century Russian mountains (Table 1).<sup>1,2</sup> Roller coasters continue to set new height and speed records as engineers attempt to outdo each other by building the fastest, most thrilling ride in this increasingly competitive industry (Table 2).<sup>3,4</sup>

# AMUSEMENT PARK INJURIES AND DEATHS Bruckick & Roberts

Amusement park injuries and mishaps have long been considered newsworthy events, but stories have become more common in the last several years. A string of fatal amusement park accidents during a 6-day period in August of 1999 led many to question the safety of amusement park rides and prompted legislative attempts to regulate the industry. On August 22, 1999, a 12-year-old boy fell to his death after slipping through a harness during a 129-ft free fall on the Drop Zone Stunt Tower ride at Paramount's Great America theme park in Santa Clara, CA. On

August 23, 1999, a 20-year-old man fell to his death from the Shockwave stand-up-style roller coaster at Paramount's Kings Dominion theme park in Doswell, VA. This particular roller coaster reaches a height of 95 ft and maximum speeds of 50 mph. Finally, on August 28, 1999, a 39-year-old woman and her 8-year-old daughter were killed when their roller coaster car slid backward down a 30-ft ascent and crashed into another car on the Wild Wonder ride at Gillian's Wonderland Pier in Ocean City, NJ.<sup>4</sup>

Injuries and deaths in amusement parks are not restricted to roller coaster style rides. For example, a 21-year-old man was recently killed on a reverse-bungee catapult ride called the Rocket Launcher in Ontario, Canada. The ride consists of 2 steel towers with a bungee cord connected to each. The cords are stretched toward the ground, where they are attached to the rider's safety harness and then released, catapulting the rider at high speeds into the air. Before the victim was launched into the air he was told by the "jumpmaster" to "hold out his arms and fly like

Table 1.  
Roller coaster historical timeline.<sup>1,2</sup>

Time	Place	Description
15th and 16th century	Russia	Large blocks of ice used as sleds down 70-ft hills of ice.
1784	St. Petersburg, Russia	First wheeled roller coaster.
1804	Paris, France	First roller coaster to be built in Paris; called <i>montagnes russes</i> (Russian mountains). In honor of its origin.
1817	Paris, France	First roller coaster with wheels that locked onto a track.
1846	Paris, France	First loop roller coaster, called "centrifugal railway," was tested with monkeys, flowers, eggs, and glasses of water before humans beings were allowed to ride.
1864	Coney Island, NY	First American-built roller coaster, the Gravity Pleasure Switchback Railway, has two 40-ft towers with a track in between. It cost US\$1,600 to build and reached a top speed of 8 mph; at 5 cents a ride, the investment paid for itself in 3 weeks.
1920s	—	Golden age of roller coasters; by 1928, there were 1,500 roller coasters worldwide.
1927	Coney Island, NY	The Cyclone reaches a high speed and has an 85-ft plunge and 80-degree angles. It is "industry standard" to this day.
1930s to 1940s	—	Great Depression and World War II lead to a decrease in the number of roller coasters to <200 worldwide.
1950s	United States	Walt Disney redefines the theme park industry; a new enthusiasm for coasters develops.
1984	Cincinnati, OH Williamsburg, VA	Advent of first successful stand-up coaster at Paramount's Kings Island and first successful suspended coaster at Busch Gardens, Williamsburg.
1982	Chicago, IL	First successful inverted coaster introduced at Six Flags Great America.
1987	Los Angeles, CA	Superman the Escape at Six Flags Magic Mountain exceeds 100 mph.

Table 2.  
Roller coaster records 2001.

Roller Coaster	Park	Speed, Height, Drop, or G Force
<b>Fastest roller coasters<sup>3</sup></b>		
Tower of Terror	Dreamworld, Coomera, Queensland, Australia	100 mph
Superman, The Escape	Six Flags Magic Mountain, Los Angeles, CA	100 mph
Steel Dragon 2000	Nagashima Spa Land, Nagashima, Japan	95 mph
Millennium Force	Cedar Point, Sandusky, OH	83 mph
GoSix	Six Flags Magic Mountain, Los Angeles, CA	85 mph
<b>Tallest roller coasters<sup>3</sup></b>		
Superman, The Escape	Six Flags Magic Mountain, Los Angeles, CA	415 ft
Tower of Terror	Dreamworld, Coomera, Queensland, Australia	377 ft
Steel Dragon 2000	Nagashima Spa Land, Nagashima, Japan	318 ft
Millennium Force	Cedar Point, Sandusky, OH	310 ft
Fujiyama	Fujiyama Highland Park, Fujiyoshida-shi, Japan	259 ft
<b>Greatest drop<sup>3</sup></b>		
Tower of Terror	Dreamworld, Coomera, Queensland, Australia	328 ft
Superman, The Escape	Six Flags Magic Mountain, Los Angeles, CA	328 ft
Millennium Force	Cedar Point, Sandusky, OH	300 ft
GoSix	Six Flags Magic Mountain, Los Angeles, CA	255 ft
Fujiyama	Fujiyama Highland Park, Fujiyoshida-shi, Japan	229 ft
<b>Greatest G-forces<sup>4</sup></b>		
Tar's Tazoo Tornado	Six Flags AstroWorld, Houston, TX	6.5
Rainey Mountain	Six Flags Over Texas, Arlington, TX	5.2
Rock 'n' Roll Coaster	Disney MGM Studios, Orlando, FL	5
Two Face: The Flip Side	Six Flags America, Largo, MD	5
Face/Off	Paramount's Kings Island, Cincinnati, OH	5
Batman and Robin Inverted	Six Flags Great Escape, Jackson, NJ	5
	Paramount's Great America, Santa Clara, CA	5

# AMUSEMENT PARK INJURIES AND DEATHS

Brästvik & Roberts

Superman." His harness became disengaged, and he launched 100 feet into the air, landing on pavement.<sup>6</sup>

A *Journal of the American Medical Association* article in 1985<sup>5</sup> reported the death of a 14-year-old boy at a water-slide theme park in Utah. The boy was dangling from the side of a waterslide collecting pool when he was sucked into an underwater pipe (12.5 inches in diameter) that pumped water back up to the top of the slides. He traveled underwater 93 ft before becoming lodged in a 90-degree vertical bend in the pipe within the pump house. He was located after 15 minutes, but resuscitation efforts failed.

In this article, we review reports of amusement park injuries and fatalities that have been published in the medical literature. We also review amusement park injury and fatality data collected by the Consumer Product Safety Commission (CPSC). Finally, we review literature on the physics and the physiologic effects of roller coasters that may predispose healthy individuals to injury and make recommendations.

## INJURIES IN THE MEDICAL LITERATURE

A MEDLINE search of the medical literature with no limitations between 1966 and the second week of August 2001 revealed numerous amusement park injuries. These include corneal foreign bodies from bumper car collisions,<sup>6,7</sup> a pneumothorax resulting from "reversed" bumper jumping,<sup>8</sup> a report of "roller coaster glaucoma" in a patient with Marfan's syndrome,<sup>9</sup> peritoneal dialysis catheter displacement after a roller coaster ride,<sup>10</sup> and lately, more frequent reports of neurologic complications after exposure to the G forces of roller coasters.

The January 2000 issue of *Neurology*<sup>11</sup> published a case report that was widely publicized in the media and cited by legislators fighting for regulation of the amusement park industry. The article described a 24-year-old Japanese woman who developed a headache on the way home from Fujiyama Highland Park in Japan. She had ridden 3 different roller coasters, each twice. These included the fifth-tallest roller coaster in the world, the \$20 million Fujiyama. This particular coaster is 259-ft tall, has a 229-ft drop, and reaches speeds in excess of 81 mph. The patient's headache lasted 4 days, and she was initially diagnosed as having tension headaches. Four months later a magnetic resonance imaging scan revealed bilateral chronic subdural hematomas. This report referred to 3 previously published cases of subdural hematomas related to roller coaster rides and suggested an association.<sup>11</sup>

The authors commented that roller coaster rides create "up-and-down, to-and-fro, and rotary acceleration,

which produce tensile and shearing stresses." This could lead to tearing of the bridging veins and subsequent subdural hemorrhage. They further suggested that managers of amusement parks, builders, designers, and passengers should be aware that giant roller coasters can cause subdural hematomas in healthy individuals.<sup>11</sup> We found a total of 16 case reports of neurologic injury in the medical literature since 1979, with the majority of events occurring since 1990. Table 3 provides a summary of these reports.<sup>11-23</sup>

## CPSC DATA

In July 2000, the CPSC issued a report on amusement park injuries, using emergency department reports compiled between 1993 and 1999. The data were collected from the 100 EDs in the United States that participate in the National Electronic Injury Surveillance System (NEISS). These 100 hospitals represent a stratified sample of the 5,388 US acute care hospitals with EDs and 6 or more inpatient beds. There are 5 strata in NEISS, 4 of which are stratified on the basis of annual ED visits (small, medium, large, and very large). The fifth stratum consists of children's hospitals.<sup>24</sup>

EDs participating in NEISS assigned a specific code to all cases of amusement park-related trauma treated at their institution. The data from these 100 EDs were then extrapolated to produce national estimates of injuries, with subsequently large confidence intervals (CIs).

Fatality data were obtained by searching various CPSC files, including death certificate files, the injury or potential injury incident file, and the NEISS file. "Capture-recapture" analyses were conducted on these files to derive fatality estimates for the years 1987 through 1999.

On the basis of this analysis, the CPSC estimated that there were 10,380±5,560 ED-treated injuries during 1999 (95% CI). This represents an increase from the 7,700±3,980 estimated injuries that occurred in 1993.<sup>24</sup> Seventy percent of the injuries in 1999 occurred at "fixed-site" amusement parks such as Disney World, Six Flags, and Universal Studios. Thirty percent of injuries in 1999 occurred at mobile (traveling) amusement parks. These data produce an estimated rate of 23.5 injuries per million attendees at fixed-site parks in 1999 (Table 4). Because annual attendance data are not reported for mobile amusement parks, it is impossible to generate an estimate of injuries per million visits to these facilities.

In its report, the CPSC noted a marginally significant increasing trend in fixed-site and total injuries between 1993 and 1999 ( $P<.07$ ). However, their data did reveal a sharp increase in fixed-park injuries beginning in 1997.



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The overall increase in injury rates from 1996 to 1999 was statistically significant (Kendall's  $\tau$  1-tailed test,  $P=.04$ ). Reports of fixed-site amusement park injuries increased by 95% between 1996 and 1999, whereas attendance at these parks increased by only 6.5%.<sup>24</sup>

In July 2000, the CPSC issued a second report that analyzed amusement park fatality data collected between 1987 and 1999. The documented number of traumatic, nonoccupational fatalities during this time frame was 49, or 3.8 fatalities per year during the reporting period. During the 1990s, there were 21 documented deaths at fixed-site amusement parks and 7 deaths at mobile parks. The number of fixed-site fatalities in 1999 was 6; however, the exact total was still pending at the time of data release (Table 5). From 1993 through 1999, there was an upward trend in both fixed-site and total fatalities that

did not achieve statistical significance ( $P=.08$  by an exact Kendall's  $\tau$  1-tailed test).<sup>24</sup>

Of the 49 documented fatalities from 1987 to 1998, 12 occurred on roller coasters. Water rides were the second most common cause of fatalities, with 5 (Table 6). The states with the most amusement park fatalities were California and New Jersey, each with 6 deaths between 1987 and 1998. Injury rates by ride type and state were not provided.

There are important limitations to the CPSC reports. The CPSC itself noted that it would be difficult to conclude from these data that mobile parks are safer than fixed-site parks because accurate attendance counts at mobile parks are not available. If the attendance and number of rides per patron were known for both fixed-site and mobile parks, one could calculate the rate of injuries

**Table 3.**  
Amusement park injuries cited in the medical literature.

Year	Country	Age/Sex	Pathology	Manifestations	Outcome	Journal	Author
1979	United States	13/F	Carotid thrombosis	Headache, right hemiparesis, aphasia	Occasional expressive aphasia	JAMA	Scheer and Corlin <sup>12</sup>
1991	United States	32/F	Subarachnoid hemorrhage and carotid artery aneurysm	Headache, loss of consciousness	Full recovery	J Neurosurg	Senegre <sup>13</sup>
1994	Canada	26/M	Subdural hematoma	Headache, nausea, vomiting	Full recovery	J Trauma	Fernandes and Doye <sup>14</sup>
1995	France	53/F	Internal carotid artery dissection	Pain behind eye	Full recovery	Presse Med	Kattanek et al <sup>15</sup>
1995	Canada	54/M	Subdural hematoma	Headaches	Full recovery	N Engl J Med	Bo-Abbas and Bolton <sup>16</sup>
1995	France	31/F	Vertebral artery dissection	Vertigo, weak of neck pain/headaches	Full recovery	Lancet	Bouasse et al <sup>17</sup>
1996	France	29/F	Internal carotid artery dissection	Headaches, hemiplegia, aphasia	Remained aphasic, hemiplegic	Presse Med	Kattanek et al <sup>15</sup>
1996	United States	38/F	Traumatic thoracic cerebrospinal fluid leak with intracranial hypotension	Severe headache, nausea, photophobia	Full recovery	Lancet	Schiewink et al <sup>18</sup>
1997	France	23/M	Syringomyelia, brain stem dysfunction	Anaxia, neck pain, brain stem dysfunction	Mild dysphagia, left hand ataxia	Neurology	Kattanek et al <sup>19</sup>
1997	France	29/F	Vertebral artery dissection	Headaches, neck pain, cerebellar ataxia	Full recovery	Rev Med Interne	Gaderme et al <sup>20</sup>
1997	United States	77/M	Subdural hematoma with midline shift	Nausea, vomiting, headache, dysarthria	Died 13 days after ride	Am J Med	Snyder et al <sup>21</sup>
1998	United States	37/F	Brown-Sequard syndrome, meningioma causing severe cord compression	Neck pain, numbness, altered temperature sensation	Mild residual spinothalamic deficit	Lancet	Bateman and Popple <sup>22</sup>
1998	France	31/M	Internal carotid artery dissection	Aphasia, convulsions, hemiplegia	Remained aphasic, hemiplegic	Presse Med	Kattanek et al <sup>15</sup>
1998	France	35/F	Internal carotid artery dissection	Neck pain, headaches	Full recovery	Presse Med	Kattanek et al <sup>15</sup>
1999	Japan	24/F	Chronic subdural hematomas	Headaches	Full recovery	Neurology	Fukutake et al <sup>23</sup>
2000	Italy	47/M	Intraparenchymal cerebral hemorrhage, subarachnoid hemorrhage	Headache, nausea, vomiting	Full recovery	JAMA	Nencini et al <sup>24</sup>

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and fatalities per ride and type of facility. The proximity of the participating EDs to either a mobile or fixed-site amusement park is an important limiting factor in the data collection. If the participating EDs in NEISS were not found in geographic proximity to amusement parks, the CPSC data would significantly underestimate reported injuries. Furthermore, the CPSC report did not distinguish reports of minor trauma, such as ankle sprains or simple lacerations, from major trauma, such as a traumatic brain injury, in their statistics.

The CPSC did note in their 1998 report that only 0.8% of amusement park injuries required hospitalization.<sup>25</sup> This compares with an overall hospitalization rate across all product-related injuries in the CPSC's database of approximately 4% in recent years. Assuming this 0.8% hospitalization rate remained the same in 1999, this would represent 58 hospitalizations out of 7,260 fixed-site park-related injuries. The amusement park industry estimates that visitors take approximately 900 million rides per year. If this is true, it suggests that the risk of being injured severely enough to require medical attention on an amusement park ride in 1999 was 1 in 124,000 rides. The risk of injury requiring hospitalization was greater than 1 in 15 million rides. The risk of being fatally injured was 1 in 150 million rides (6 total deaths in 1999).

## PHYSIOLOGIC EFFECTS OF ROLLER COASTERS

Currently, industry officials and legislators are debating the physiologic safety of roller coaster rides. Some government officials and safety advocates believe that new technological advances and competition within the amusement industry have led to dangerously high G forces that

may produce bodily harm. Unfortunately, few medical researchers have studied the specific physiologic effects of roller coaster rides on the human body. In addition, lack of G-force studies directed specifically at roller coasters requires extrapolation of Navy and Air Force centrifuge data, which require careful interpretation.

A study by Pringle et al<sup>26</sup> looked at the physiologic heart rate response to riding on a roller coaster. Thirteen healthy participants with portable cardiac monitors were subjected to a double-loop corkscrew roller coaster with 3 Gs of acceleration and speeds greater than 40 mph for 94 seconds. The most striking finding to the researchers was the rate of onset of tachycardia. All participants reached their maximum heart rate within 8 seconds. The

Table 5.  
Amusement ride fatalities by year and ride site.<sup>24</sup>

Year	Fixed	Mobile	Unknown	Total
1999	6	0	0	6
1998	3	2	2	7
1997	1	0	3	4
1996	2	1	0	3
1995	3	1	0	4
1994	2	0	0	2
1993	1	1	2	4
1992	0	2	0	2
1991	3	0	0	3
1990	0	0	0	0
1989	3	0	0	3
1988	2	1	4	7
1987	4	0	0	4

Table 4.  
Estimated amusement ride injuries by year and site of ride.<sup>24</sup>

Year	Facility Type		Total No. of Injuries	Park Attendance (Millions)	Injury Rate per Million Rides*
	Fixed	Mobile			
1999	7,260	3,120	10,380	309	23.5
1998	6,500	2,670	9,170	300	21.6
1997	5,460	2,580	8,040	300	18.2
1996	3,720	2,930	6,650	290	12.8
1995	4,290	3,280	7,540	280	15.3
1994	3,790	2,970	6,760	267	14.2
1993	4,830	2,890	7,700	275	17.5

\*Injury rates apply to fixed-site injuries.

Table 6.  
Amusement ride fatalities from 1987 to 1999 by ride type and mobility.<sup>24</sup>

Ride	Facility Type			Total
	Fixed	Mobile	Undetermined	
Roller coaster	12	0	3	15
Whirling	2	4	4	10
Water	5	0	0	5
Train	2	1	0	3
Ferris wheel	2	0	0	2
Slingshot	1	0	0	1
Unknown	6	3	4	13
Total	30	8	11	49

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mean heart rate increase was from 70 beats/min to 154 beats/min. No ventricular dysrhythmias or ST depression were detected. Comparing a roller coaster ride with a cardiac stress test, the researchers concluded that a rapid increase in heart rate and thus myocardial oxygen demand could place individuals with underlying ischemic heart disease at risk for a cardiac event.<sup>26</sup>

A "G" is a unitless measure of the acceleration of an object divided by the acceleration caused by gravity. Neglecting air resistance, Earth's gravitational pull causes free-falling objects to change their speeds by a constant  $9.81 \text{ m/s}^2$  ( $32 \text{ ft/s}^2$ ). Dividing acceleration (calculated as change of velocity divided by time) by this constant equals the number of Gs.<sup>27</sup>

On the basis of medical reports of neurologic injuries on roller coasters, some legislators have proposed limiting the G-force levels of roller coasters to less than 4 Gs. Germany has adopted similar legislation, limiting their roller coasters to 5 Gs or less.<sup>28</sup> There are now more than 18 roller coasters in the United States that produce G forces in excess of 4.0 Gs, including Taz's Texas Tornado, which boasts 6.5 Gs (Table 2).<sup>4</sup> For comparison, the National Aeronautics and Space Administration (NASA) reports that astronauts on the space shuttle, which reaches speeds of 17,440 mph, experience maximum launch and reentry G forces of less than 4 Gs.<sup>29</sup>

The most comprehensive studies on human physiologic changes during high G-force exposures have occurred in space and aviation research. It is important to note that the majority of these studies have focused on more sustained periods of exposure to high G forces in centrifuges, rather than the short, intermittent exposure associated with roller coasters.

Researchers have studied the loss of consciousness induced by sustained G force, termed G-LOC. High hydrostatic pressures caused by sustained G forces cause a decrease in cerebral blood flow, leading to loss of consciousness. This is first preceded by a decrease in perfusion of the peripheral retina causing a "grayout." A "grayout" consists of loss of peripheral and then color vision. When the G forces increase further, perfusion of the central retina ceases, leading to a "blackout." G-LOC follows a blackout by approximately 0.8 Gs. G-LOC has been associated with confusion, amnesia, and seizures.<sup>27</sup>

In 1954, the US Navy studied 1,000 participants in its 2 centrifuges and found that the mean G associated with G-LOC was  $5.4 \pm 0.9$ , with a range of 3.0 to 8.4 Gs.<sup>30</sup> Another study by the Navy in 1954 found that the time required to produce loss of consciousness at high Gs was a constant 4.2 seconds, independent of the G level ( $>3 \text{ Gs}$ ).<sup>31</sup>

Current US Air Force research has expanded on these data and defines G-force tolerance in terms of the rate of acceleration, whether it is gradual (0.1 G/s), rapid (1 G/s), or very high (6 G/s). At a rate of 1 G/s, loss of consciousness occurs at an average of 5.4 Gs, with a range of 3.0 to 8.4 Gs.<sup>32</sup> Currently, there are insufficient data as to the exact time period over which roller coasters apply and sustain their G forces. The rarity of loss of consciousness on roller coasters suggests that the duration of applied G force on roller coasters is less than the 4.2-second threshold identified by Navy data.

A study by Allen et al<sup>32</sup> looked at the G forces experienced by the human head in everyday life. Each participant in their study was fitted with a helmet containing accelerometers that measured head motion in 3 dimensions. A computer then calculated the G-force vector. The authors calculated a sneeze to induce a force of 2.9 Gs. A cough was 3.5 Gs. A friendly slap on the back was 4.1 Gs. Plopping down into a comfortable chair was calculated as 10.1 Gs. The time over which this force lasted was similar in all events, with a mean time of 0.19 seconds.<sup>32</sup> This paper suggests that G forces up to 10 Gs applied to a human being for a fraction of a second do not result in loss of consciousness or serious injury.

The high G forces created by current roller coasters may not last long enough to disturb cerebral blood flow to the point of loss of consciousness. This does not mean, however, that the effects of brief, high G forces on the brain are benign. As already noted, case reports have demonstrated subdural hematomas, internal carotid and vertebral artery dissections, and subarachnoid hemorrhage in association with roller coaster-generated G forces, but no research has determined the human G-force threshold for these injuries. The absolute strength (total Gs), the duration of G force, and the rate of intensification of G force are all important variables. It is certainly possible that lateral G forces, rotational acceleration, abrupt directional changes, and predisposing anatomic factors play an important role in these types of injuries as well.

The mechanism of subdural hematoma formation has been well established. The meningeal layers (dura mater, arachnoid membrane, and pia mater) appear to be closely attached, and there is no evidence of a potential space between the inner dural border cell layer and the outer arachnoid cell layer. Subdural hematomas result from disruptive forces that split open the inherently weak cell plane that forms the dural border. Anterior-posterior forces are more frequently to blame, because the falx cerebri appears to afford some protection against lateral forces.<sup>33</sup> Rupture of bridging veins that connect the pia

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and dura mater or tearing of the small cortical arterial vessels during these applied forces results in the associated hemorrhage.<sup>34</sup>

Bridging veins are at particular risk of rupture because the subdural portions of the veins have relatively thin walls and lack outer reinforcement in comparison with the subarachnoid portion of these veins.<sup>35</sup> The forces that tear these veins can be direct or indirect and usually involve acceleration, deceleration, or both, such as from a motor vehicle crash or fall. These produce short duration, high strain loading on the brain. The risk of rupture of bridging veins is probably related to the magnitude, rate of onset, and duration of acceleration.<sup>36</sup>

Authors familiar with amusement ride trauma have speculated that the forces produced by roller coasters are substantial enough to lead to serious injury. Bo-Abbas and Bolton<sup>16</sup> commented that roller coaster rides induce marked rotatory and other positional changes in a deformable brain that is moving within a rigid skull. Tensile and shearing forces may be severe enough to rupture cortical veins leading to subdural hematomas. In their report, the authors compared this type of scenario with what occurs in the "shaken baby" syndrome.<sup>15</sup> Fernandes and Daya<sup>14</sup> also stated that, in the absence of any other predisposing factors, the acceleration forces associated with roller coaster rides can cause the tearing of bridging veins, resulting in subdural hemorrhage. Biousse et al<sup>17</sup> observed that carotid and vertebral artery dissections are often associated with indirect trauma or torsion of the neck. The acceleration and abrupt changes of direction on a roller coaster may induce uncontrolled rotation of the head with stretching of the cervical vessels and aorta similar to that observed with acute deceleration in a motor vehicle crash. Sturzenegger<sup>37</sup> reported that "trivial" trauma was to blame in 40% of internal carotid artery dissections, including sport and fitness activities, chiropractic manipulation, violent coughing or nose blowing, and rapid head turning.

## REGULATORY OVERSIGHT

Current federal law subjects mobile amusement parks and carnivals to CPSC investigations. Jurisdiction over mobile parks was granted in July 1981. The CPSC was given the authority to investigate accidents, develop and enforce action plans to correct defects, and act as a national clearinghouse for accident and defect data. Fixed-site parks were to be included in this legislation but, after successful legal challenges from owners of large amusement parks, a "roller coaster loophole" was created. Large

fixed-site parks were exempt from reporting injuries or fatalities to the CPSC. This loophole allowed states to decide whether or not to regulate and monitor large parks.<sup>28</sup>

Currently in the United States, 9 states (Alabama, Arizona, Kansas, Mississippi, Missouri, Montana, North Dakota, South Dakota, and Utah) and the District of Columbia have no regulatory laws governing fixed-site rides. Other states, like Florida (the home of Disney World, Sea World, and Universal Studios), have laws that exempt any park owned by a company with more than 1,000 employees from state inspections, injury reporting, or accident investigations.<sup>28</sup>

## RECOMMENDATIONS

Although the current risk of injury, hospitalization, and death on amusement rides is extremely low, health care providers should be aware of a worrisome trend in the number and rate of amusement park injuries. CPSC statistics suggest that a statistically significant increase in amusement park ride injuries occurred between 1996 and 1999. Because of weak state oversight and the "roller coaster loophole," the true number of amusement park injuries is probably much higher than that currently reported.

There are several recent medical case reports of apparently healthy individuals suffering neurologic injury from high-speed, high-G-force rides. Although data exist as to the threshold of G force needed to produce loss of consciousness in a controlled centrifuge, there is little or no data on the neurologic effects of intermediate duration (ie, 1 to 4 seconds) G forces combined with rapid directional changes. Several authors have suggested that the giant roller coasters now being introduced may be capable of generating G forces sufficient to cause subdural hematomas and other serious neurologic injuries in an unknown percentage of riders.

Advances in technology are leading to ever faster, more thrilling rides as parks compete to attract patrons. There may come a point when roller coaster G forces reach or exceed the human body's threshold of tolerance. If and when this happens, significant increases in head, neck, and back trauma will occur. To prevent this from happening, medical researchers and roller coaster engineers should work together to define the upper limits of tolerance for riders, with an acceptable margin of safety.

The public may benefit from a more accurate and timely database of injury reports and investigations. Riders should be aware that, although the current risk of amuse-

Mr. MARKEY. And one final question, if I may, Mr. Stratton. Do you support Congress acting to lift the cap on civil penalties for violations of product safety laws? Don't you think that a \$1 million fine of a company the size of General Electric is, for them, the equivalent of a parking ticket, just the cost of doing business? And it doesn't even show up because their numbers are so large that they are dealing with, even as a rounding error it doesn't show up. Do you believe that you should have a greater ability to impose larger fines on these companies?

Mr. STRATTON. Mr. Chairman, first of all, let me say that I don't see that as the equivalent of a parking ticket. And the reason that I—

Mr. MARKEY. Well, to General Electric I said it is the equivalent of a parking ticket.

Mr. STRATTON. Or to General Electric. I do not consider that to be equivalent of a parking ticket to General Electric, and the reason is—is because I think there is a lot more to being fined and getting a penalty from the CPSC than just the amount of money. So I think there is—there is quite a stigma that is attached to that. So I am not quarreling—I am not quarreling with your premise, I am just saying that I don't think that the amount of money is the only thing to be considered in that particular scenario.

Mr. MARKEY. Well, you are saying that the stigma that is attached from being criticized by CPSC is such an incredible public relations disaster for General Electric that that itself substitutes for the money that you are not able to extract from them as a penalty?

Mr. STRATTON. No, sir, I am not saying that. I am saying that is an additional negative aspect.

Mr. MARKEY. I agree with that, but what I am saying to you is that General Electric is \$100 million, \$200—a \$100 billion, \$200 billion corporation, and a \$1 million fine is so teeny tiny that to change its entire chain of consumer products in order to avoid—it can only really be given an incentive if the financial penalty is so great—you know, with a \$1 fine, a company, with the stigma, you can get this thing resolved under your theory. You know, the dollar amount isn't that important, it is just the fact that the CPSC has censored you. But I think that each of us makes a decision that—let us put it like this. A parking fine of \$15 or \$20, that is a risk you will run. A speeding ticket of \$200 or \$250 or \$300 with the accompanying loss of your license, that is something that 99 percent of people wouldn't even consider engaging in, Right? So the dollar amount does play a role in terms of what the risk is that people are willing to run in terms of the crime or the offense that they are willing to commit.

Mr. STRATTON. Mr. Markey, I don't disagree with you. And let me—

Mr. MARKEY. So, are you saying that it is adequate?

Mr. STRATTON. No.

Mr. MARKEY. That is my question. Do you believe that the cap on you is okay, and you don't want it lifted, and you think you can get your work done? Or, if Congress did lift it and gave you greater discretion, would that be something that you would receive with your approval?

Mr. STRATTON. Well, I think it is something we need to look at and we need to consider. But let me point out one thing. It is not just—it is not as simple as raising the caps. I mean, the cap is \$1.65 million. So, the cap is more than \$1.5 million, it is not \$1 million. And you might ask the question—in fact, I have been asked the question: Why didn't we get more than a million? Why didn't we get the \$1.65 million, because it is G.E., and because the conduct is somewhat egregious in some people's opinion. And the answer is it was a settlement prior to litigation. We wanted \$1.65 million; they didn't want to pay anything. The lawyers get together and they—including the Justice Department, because as you know, the Justice Department gets involved in this, and the lawyers get together, and you come to some compromise without litigation.

Regardless of what the caps are, if there are no caps whatsoever, I can just tell you as a litigator for the last 25 years that the more money you try to get from somebody, the more resources you are going to spend trying to get it, and sometimes you have to do that. And I don't disagree with doing that, and I think many times it needs to be done. And that might very well have been a case that we needed to do it. But I hope in considering whether the caps are lifted, I hope if you do lift the caps and you expect us to get \$10 or \$20 or \$100 million penalties from people, that you will give us the resources to proceed to do that. We need the litigation resource, including the lawyers and all the other litigation support, to go after that.

Really and frankly, right now I don't know whether—I mean, some people have criticized me for even mentioning this, but I think industry knows this and business knows this. Right now our biggest problem isn't the cap; our biggest problem is having the resources to push it up to the limit of the cap and get that money.

Mr. MARKEY. Right. But you were attorney general in the State of New Mexico.

Mr. STRATTON. Yes, sir.

Mr. MARKEY. So you know that as a negotiator, if the other side already knows what your upper limit is going into a negotiation and in a settlement, that they have the upper hand. On the other hand, if you as the attorney general of New Mexico had this unlimited ability now to impose a penalty, you were in a position from the public's perspective, protecting everyone in the community, not just the corporation, to extract a good result that would leave the public protected for the long term.

Right now every company, every corporation that you are negotiating with knows what the upper limit is. They know it is \$1.6 million. And you are handicapped, your hands are tied, because they come in with a very good negotiating position. And \$1 million is a good result if you can't go any higher than \$1.6 million, but if you had no cap, Mr. Chairman, as you were as attorney general of New Mexico, don't you think you would be in a better negotiating position for the public to extract public safety protection?

Mr. STRATTON. Generally, yes, if you had the firepower to back up your position.

Mr. MARKEY. Right. But the firepower is the fine. Now your negotiators, your staffers have the ability to go in and negotiate with

some real clout behind them if the other side believes the chairman would accept their recommendation.

Mr. STRATTON. If I may. The firepower is not the ability to negotiate; the firepower is the ability to go to court and force them to do that if they disagree. And if they won't do that, if they just say, we are not going to pay it, we are going to see you in court—

Mr. MARKEY. Right. But—

Mr. STRATTON. The firepower is having the staying power to go into court and be there for several years and get the large fine.

And let me just say, I am not opposed to your legislation. I mean, I will go on record right now saying I am not opposed to it. And if you pass that legislation, it is just fine with me. I just want a little more time before I come to a conclusion about what I think is the best course to deal with that issue.

Mr. MARKEY. But if you want more firepower, you want more staffing, you tell us what you want, we will give it to you. Tell us how many more people you want to be able to do this. But let me also say this to you in terms of firepower: You may not be given permission by OMB to ask for any more firepower, but nonetheless, we would be willing to give—unless you want—

Mr. STRATTON. We have a budget request.

Mr. MARKEY. If you work for the nuclear department, they will give it to you. Okay? If you want Star Wars, they will give it to you. But for consumers, I doubt that they will give you any more firepower, so you are kind of stuck with what you have got.

But what I am saying to you is that as the protector of the public, the other side should be in a very uncertain world, and you would get a much faster negotiated settlement if they knew that your recommendation were ultimately to be to go to court to get \$20 or \$30 or \$40 million settlement and not \$1.6 million, and that your side, your team, would be able to get a settlement early and to get these defective products off the marketplace.

We are talking about 3.1 million dishwashers that had a defective product that could cause fires. So all you need is three or four fires. With the average house or homes in the United States right now, it hits \$1 million after three fires, if the homes burn down, and we are talking about 3 million dishwashers that could have this defect. So the sooner you are able to go in and effectively negotiate, the sooner the public doesn't have to worry that this inherent defect could, like a lottery ticket, come to their home, burn it down, lose their life savings, but perhaps also lose the lives of some family members.

We are on your team. We want to help you. We know you want to do a good job, and we will do our best for you.

Mr. STEARNS. Thank the gentleman.

The gentleman from New Hampshire is recognized.

Mr. BASS. Thank you, Mr. Chairman.

And congratulations, Chairman Stratton.

Mr. STRATTON. Thank you.

Mr. BASS. And I apologize for having come in slightly late and missed your opening statement.

I heard my friend from Massachusetts talk about the amusement ride issue, which is interesting to me, with the number of amusement rides in my home State as well. I recall from my legislative

days that we in New Hampshire have a bureau in the Department of Safety that regulates ski areas, amusement rides, and something else I can't recall. And I believe that they have standards that are equal to or greater than any of the standards that are promulgated by CPSC for mobile—for mobile amusement systems. I just recall that, and it is old information.

The other thing is it seems to me that increases in accidents may be significant, but they may also not take into account the fact that these fixed facilities now, instead of having one roller coaster, might have eight or four or three. And, therefore, I think it might be helpful in the debate perhaps, if this continues to be an issue, to have CPSC do some sort of a study to determine which States have regulations in place that are adequate, and whether or not these increasing number of accidents which on the face of it appear to be pretty alarming are the result of factors outside of lack of Federal regulation.

Mr. MARKEY. Would the gentleman yield just briefly?

Mr. BASS. Sure. I would be happy to yield.

Mr. MARKEY. From——

Mr. BASS. And I am not prepared to debate this, but——

Mr. MARKEY. I am not going to debate. The point that I am going to make here is that I live in Massachusetts. We spent every summer going up to vacation in New Hampshire. So, it is good news to know that the people in New Hampshire put stronger protections on Canobie Lake Park or other amusement park rides that my family was on. On the other hand, what happens when New Hampshire residents get in their cars and they go to other States? It turns out that one-third of all rides in the United States are never inspected by anybody at any time. So it is not so much that you can protect your own State, because most families get on these rides when they are not in their own States, when they are traveling on vacations with their kids, and they assume that the other State has the same protections that their home State has.

Mr. BASS. It would be interesting to examine those issues in those other States and perhaps determine to start a dialog as to why they don't have the kinds of regulatory processes that should be in place there. But I wasn't here to discuss that.

I appreciate the chairman's making reference during his opening statement to a constituent of mine, Dean Cayman from Manchester—he is technically out of my district, I guess—but who has invented a personal mobility device called a Segway, and from a regulatory standpoint, at this point it is neither fish nor fowl. And over the last year and a half or so, I and others in Congress have been attempting to assure that CPSC has jurisdiction over devices such as this or generically. They are low-speed electric personal assistive mobility devices.

And I was wondering, Chairman Stratton, if you have had a chance to think about this, and if you thought—if you could give me your views about whether or not you think CPSC should have jurisdiction over these types of devices.

Mr. STRATTON. Mr. Chairman, once again I really—I have thought about it because I read about it in the Wall Street Journal and other places like that. I have not come to a conclusion, and I haven't thought it through that much.



Once again, if you all want to pass a bill that gives us jurisdiction, we are more than happy to have it. Maybe we have jurisdiction, I don't know. I don't know that the legal staff has concluded that yet. But——

Mr. BASS. Chairman Stratton, would an effort—and you may have answered this question already—by Congress to clarify the jurisdiction be welcomed on your part?

Mr. STRATTON. Always. Yes, Mr. Chairman and Mr. Bass, it would be.

Mr. BASS. Well, Chairman Stratton, I look forward to working with you on this matter over the next few months. And I will yield back to the chairman.

Mr. STRATTON. Thank you.

Mr. STEARNS. The chairman yields back the balance of his time. The gentleman from Tennessee is recognized. Mr. Gordon.

Mr. GORDON. Thank you, Mr. Chairman.

Chairman Stratton, welcome to our hearing today.

Mr. STRATTON. Thank you.

Mr. GORDON. In your remarks you said that your first priority was—and I will quote here—means eliminating from the market consumer products that create an unreasonable risk of injury or death. What is a reasonable risk of injury or death that you are willing to put up with?

Mr. STRATTON. Well, Mr. Chairman, you can't determine that here today without knowing the facts and the hypothetical. I mean, automobiles create a risk of death. People get killed in them all the time. Airplanes do. So——

Mr. GORDON. You know a lot about the sleepwear, since, again, I am sure you have done your homework, I can tell, from what you have done here and your staying up nights and your getting up early. So you, I am sure, have reviewed this several years and several—or thousands of man-hours and women-hours working on this. So, if one child is seriously injured or dies from the faulty sleepwear, is that enough, or do you need—or what do you need? What is reasonable and what is unreasonable there?

Mr. STRATTON. Mr. Chairman, I don't know. It depends on the circumstances of why that occurred, what the circumstances are. But before you can make that decision, I suppose——

Mr. GORDON. So do you need more information? Have they not provided you with enough—is all this 7 years and all this time, is that not enough? What else do you need to know?

Mr. STRATTON. I don't—I am sorry, Mr. Gordon, I am not sure I know what your question is. What do I need to know about the sleepwear standards?

Mr. GORDON. Well, first of all, I want you to try to tell me what was a reasonable risk, and you said you couldn't do that without specific information. So then I was saying that how much more specific could you be—could you have, I guess, than all the information that you have, your organization has gathered on the sleepwear. So since you do have a lot of information there, I thought that might be able to help you explain to me what is the difference between a reasonable risk and an unreasonable risk.

Mr. STRATTON. I think first our final staff—I think our staff has not completed their final studies on that, and it hasn't been pro-

vided to me. And I am not aware of the 7 years of work they have done on it, being there since last Wednesday. I will admit to you I am not privy to everything that they have done.

Mr. GORDON. But you have been studying and getting ready for the office, haven't you?

Mr. STRATTON. I have been—you mean during the course of confirmation?

Mr. GORDON. Yes, sir.

Mr. STRATTON. I have been keeping up. I kept up with pretty much what I could in the media, but because I was not—I could not be presumptuous about being confirmed or act presumptuous about being confirmed, I was not having contact with the Commission and ordering them to provide me all of this information. So I was really not privy to help from the Commission until August 2.

Mr. GORDON. Okay. Well, I am still interested in trying to find out what the difference is. Since you—you know, this was your testimony. You said, you know, that you want to eliminate from the market consumer products that create an unreasonable risk of injury and death. So I am just trying—or death. I am trying to figure out what is the difference between reasonable and unreasonable. I have got a 1½ year old daughter at home. And we live near Rock Creek, and we don't take our daughter out if possible in the early evenings or early mornings, as recommended, because of mosquitos.

I am going to go home tonight and check on this DEET, is that—I think that was what Mr. Markey said—because we, you know, we use that. So, let's just—is a 1 percent chance that this is going to be harmful to the health of children, is that reasonable or unreasonable?

Mr. STRATTON. It depends on the circumstances.

Mr. GORDON. Okay. Well, why don't you give me circumstances, then, that would make it unreasonable and maybe some that would make it reasonable so that I can get a better feel of where you are and your difference between reasonable and reasonable? Rather than—I am not doing a good job creating these so I will let you create those facts.

Mr. STRATTON. I think what you have to do is look at the facts of each particular case as it occurred, and if it is in the one-child situation, I think you have to make a determination as to whatever caused that death is likely to cause more. You may be on the front end of the product, you may be on the back end of the product. What if the death occurred the day the product came out? Or what if the death occurred 10 years later and that was the first death you had ever had due to the product?

You have to take those kinds of factors into consideration. And frankly, every single one of these, as far as I know, every single one—that is too broad of a statement to make. But all of these—all is not too broad, I suppose. All of these issues are based upon scientific evidence and expert evidence that is produced to the Commission about why this product is defective or why this death occurred. And that is what most of the CPSC is: engineers, scientists, and people like that who are providing that information. We are the politically appointed adjudicatory body that then makes a determination based upon what they provide for us.

So to suggest you can say that one death is reasonable or unreasonable, I am not willing to do it here today, because I might get over there and have a case and I might find a case where a death occurred in a particular way that I thought it was going to be recurring throughout the course of that product's life, and I might be willing to say it is unreasonable, or I might find a death that didn't do that. So it is impossible here to give you any kind of—it is irresponsible to give you any kind of percent, average, or any kind of hypothetical based upon that kind of factual or that lack of factual situation.

Mr. GORDON. Well, how much more information could you have than this 7 years of study on the sleepwear?

Mr. STRATTON. I am unfamiliar with the 7 years, Mr. Gordon.

Mr. GORDON. Well, let us just say, well let us just maybe make it a little more generic. A bunch. Apparently you have got a bunch of information on this. How much more do you need?

Mr. STRATTON. I don't know, because until the staff provides that information to the Commission, I am unaware of what they have or what they need.

Mr. GORDON. Is there a role for the chairman to encourage the staff? I mean, is your role to wait till they come, or do you feel like somewhere your role might be to say, it has been several years, could you hurry this up, are we going to make a decision? Is that your role or not? What would you consider that?

Mr. STRATTON. I would say that is my role.

Mr. GORDON. Okay. Well, I am sure you will be back and you will have more time to think about this in the future. But I would like to get a little better feel and maybe some examples of what is a reasonable risk versus an unreasonable risk of injury and death in terms of your office.

Thank you sir.

Mr. STEARNS. I thank my colleague. We won't keep you too much longer. I think I have a few questions and then the ranking member has a few questions and then we will be complete. So we just ask for your patience here.

Perhaps you are familiar with your predecessor. There was a Daisy BB gun recall case that she instituted last year. And I guess a question that we have on this side of the aisle is, do you intend to do anything on that or what is the status of your actions?

Mr. STRATTON. Mr. Chairman, as I understand that case, the status is that it has been sent to be heard before an administrative law judge to determine whether there should be a recall of the—I understand it is BB guns. I have intentionally not looked at this issue, and you will see why as soon as I am finished here. But that is my understanding of the status. And my further understanding is then the appeal from the administrative law judge is to the Consumer Products Safety Commission to the commissioners, and then we then sit as an adjudicatory or a quasi-judicial body to make that determination.

So I am waiting, and maybe it is the lawyer in me or the fact that I have been in the judicial system, but I am waiting to see the evidence in that case and any action I will be taking will be as an adjudicator, one of three adjudicators that—to determine, based on the evidence, what should be done.

Mr. STEARNS. And what do you think that timeframe would be?

Mr. STRATTON. Mr. Chairman, I have no idea what the timeframe is right now.

Mr. STEARNS. You and I talked earlier, and my question was talking about children's sleepwear. I have one on upholstered furniture flammability. As I understand, the CPSC staff report on upholstered furniture flammability issued last October is the most extensive safety study and analysis in CPS history. It should be. It took a full 8 years to do this study. Generally, when they take that long, you wonder—and I guess, do you think we are at a point, after 8 years and the money we have invested, that there be a decision one way or the other, and can we expect this issue to be resolved shortly? And, if not, when?

Mr. STRATTON. Mr. Chairman, I will just reiterate. I don't know anything that I think should take 8 years. But once again, I wasn't there for it, and they may have some reasons it has taken that long. I doubt they will be able to convince me anything should take that long. And you won't be seeing things take that long, at least while I am there.

Now, my understanding is they set a hearing in June for public input, a 2-day hearing for public input on these standards at the CPSC. Unfortunately, although I expected to be confirmed by then, I was not confirmed, so I didn't have a chance to attend the hearing or be privy to that. But the staff is assimilating that and they are going to present it to the Commission, and I suspect it is going to be sometime this fall that we are going to get that. But I don't have a better timeframe than that.

I would like to say that I think when you go into one of these jobs, that you have absolute control over the staff and you can dictate when they get things to you. But I am not sure that is the case.

Mr. STEARNS. Okay. Let me conclude by just making an observation on this fixed amusement sites issues. There were 320 million visitors last year at fixed-site parks; 99.99 percent visitors had no ill effects. So—and sometimes, like we had recently this summer in which someone—there was a fatality. It turns out that the person was mentally challenged and tried to get out of the—pushed the lap bar up and caused, in many ways, his own problem. And so when you look at the statistics, they are very small in terms of fatality; and, in fact, the latest CPSC figures show a 14 percent drop in the number of injuries related to fixed-site rides since 2000.

So I think when you hear things, some of it is myth and some of it is fact, and so as Mr. Bass has indicated earlier, some of these facts have to be gotten under control to understand. But that concludes my portion. And now the ranking member will do his concluding remarks.

Mr. MARKEY. Thank you, Mr. Chairman. My only bit of dicta that I would add to what the chairman just said is that in almost every case that you are going to be asked to work on, 99 percent of the devices will have worked well; only 1 percent, or a smaller percentage, will not have. So the question is not whether or not you are going to have to act to deal with situations where 50 percent or 75 percent of the devices are not working; in almost every in-

stance your judgment is going to be applied to a situation where it is 1 percent or fewer of the devices are not working well.

So, just applying that to West Nile right now, 99.9999 percent of all Americans have yet to get West Nile disease. So perhaps it is inappropriate to have that as the lead story in America every day. But every American is thinking about this disease right now because they don't want their children, they don't want their parents, to be the ones who become the victims of something that from their perspective may be preventable.

And that is where I put the roller coaster industry. It is unnecessary to have this gap that exists between mobile rides and fixed-site rides. And the only way in which you can deal with the fixed-site issue is to have some Federal jurisdiction. The roller coaster industry was able to build a loophole into the first Ronald Reagan budget in 1981. Up until 1981 you and your Agency did have jurisdiction over fixed-site amusement park rides, but the industry didn't want to be regulated anymore. They snuck it into that up-or-down omnibus budget bill in 1981, and since then your Agency has been without the authority; and the disparity between mobile rides and fixed-site rides has risen as a result.

Mr. STEARNS. Will the gentleman yield?

Mr. MARKEY. I would be glad to; glad to yield.

Mr. STEARNS. I think, though, Mr. Chairman, we have to understand that the difference between a fatality in which someone deliberately caused the problem, whereas it was a defect within the roller coaster—and this is not being differentiated when we make this discussion between the actual deficiency in the instrument versus the problem with the individual, for whatever reasons, being a daredevil, not fully understanding because of being mentally challenged—and so all of that I think has to be also put into perspective and I thank the gentleman.

Mr. MARKEY. I thank the gentleman again. When I was a boy, and the gentleman from New Hampshire, Mr. Bass, made reference to it, Canobie Lake Park had the state-of-the-art roller coaster, this beautiful old wooden roller coaster which brings back many happy memories for Mr. Bass and myself and hundreds of thousands of others. Now, in this modern era, that Canobie Lake roller coaster, which still exists, is the equivalent of a Model T automobile compared to these supersonic-speed roller coasters that are being built and marketed to children across the United States today. The G-forces on many of these roller coasters are equal to the G-forces, the gravitational pull, that an astronaut is exposed to on the take-off of the Shuttle. Well that's not the Canobie Lake roller coaster. This is something else altogether in terms of the speed and the danger that these roller coasters present.

And by the way, Mr. Chairman, I have been waiting 4 years to have a hearing on roller coasters, so you are in loco roller coaster right now. You are subject to—

Mr. BASS. Would the gentleman yield just for clarification?

Mr. MARKEY. I will be glad to yield.

Mr. BASS. For clarification, the gentleman surely doesn't mean, doesn't want to imply, that the Yankee Cannonball, which is one of the great roller coasters built in 1938 in Canobie Lake, is not to this day providing lots of enjoyment to many, many children all

over the country. It is a great roller coaster, which although there may be more modern ones, this one is certainly still a great attraction and a lot of people from Massachusetts like to come up and spend their time in New Hampshire because Nantasket, I guess, is gone now, and I guess Revere Beach is gone and so forth.

I yield back to the gentleman from Massachusetts.

Mr. MARKEY. I thank the gentleman, and I wasn't really intending to leave that impression at all. I was only trying to point out that the relationship between the roller coaster built in 1938 that is still operating today and which has brought enjoyment to hundreds of thousands if not millions of families and young people, the equivalent of that is the equivalent of the casino in Hampton Beach of my youth, which still exists as well, being compared to Fox Woods in Connecticut. I mean it is—the scale is just so much greater, you know, that you might as well be talking about prehistoric time in terms of the type of entertainment environment that has been created.

And so all we are saying here is that in the immortal words of Thomas Jefferson, the government must evolve to deal with changes, times, and customs and habits. And for children who are on these rides, they are not being put on your grandfather or father's roller coaster any longer. They are being put in a completely different situation. And I would just hope that that could be noted.

Mr. Engel, who is a member of the full committee, and who is not a member of the subcommittee has asked me to pose to you the following question, Mr. Chairman. The previous administration was very supportive of a mandatory gun lock standard that would improve the effectiveness of the safety devices now found in the marketplace. In fact, Congressman Engel and others have sponsored a bill that I am a cosponsor of, pending before this committee, that would require the Consumer Products Safety Commission to craft such a standard. Do you share the previous administration's concern about the quality of gun locks found in the marketplace that are being marketed as safety and access prevention devices? And, if so, would you welcome the jurisdiction provided by the Engel bill so that you can deal with the safety implications of that consumer product; that is, hand guns?

Mr. STRATTON. Mr. Chairman, I welcome whatever jurisdiction you give us. And I look forward to you working out the amusement park jurisdiction because, as Thomas Jefferson would indicate, that is, I guess that is why you get elected to Congress. So we look forward to you all giving us direction on that as well as this one. And I know that we are currently working with the gunlock industry on voluntary standards. That is my information. I don't know personally. This is what I have been told. And so they are working on voluntary standards. So I always share the concern.

I am not familiar specifically with the previous administration's concern, but I share that concern and I understand we are working on voluntary standards. If that doesn't work out, then we will see what the next step is.

Mr. MARKEY. And I have one other unanimous consent request to you, Mr. Chairman, to place in the record of this hearing an exchange of letters between Representative Dennis Moore of Kansas and former Acting Chairman of the CPSC, Thomas Moore, con-

cerning the need for implementation of a Federal standard for childproof caps on gasoline containers.

Mr. STEARNS. By unanimous consent so ordered.

[The information referred to follows:]

## **Congressman Dennis Moore**

Representing the Third District of Kansas

Douglas, Johnson, Miami, and Wyandotte Counties

## **News Release**

For Immediate Release  
Wednesday, September 4, 2002

Contact: Hayley Rumback  
(202) 225-2865  
hayley.rumback@mail.house.gov

# **CPSC RESPONDS TO REP. MOORE'S CALLS FOR CHILDPROOF GAS CAPS**

(WASHINGTON, DC) -- Congressman Dennis Moore (Third District -- Kansas) recently received a response from the U.S. Consumer Product Safety Commission regarding childproof caps for gasoline containers. Moore has introduced legislation that would allow the CPSC to require childproof caps for gasoline containers to prevent accidental fires.

"Bottles for products ranging from medicines to household cleaners have childproof caps, but gas cans do not. Children across the country are injured and sometimes killed by gasoline spills and fires that could be prevented if gas cans had childproof caps. I'm glad the CPSC has agreed to investigate this and I urge them to take action to protect our children," Moore said.

In a letter to Rep. Moore, Thomas H. Moore, then-acting chairman of the CPSC, acknowledged concerns about child safety and said the agency will investigate whether more restrictions are needed. The existing regulations encourage companies to produce childproof gas caps, but are only voluntary.

Moore introduced a bill giving the CPSC the authority to require childproof gas caps in 1999 after learning of an accident involving two Kansas boys. Four-year-old Jason Jones was killed and his three-year-old brother Joshua was permanently scarred by a fire in 1994. The Leavenworth, KS, boys were playing with a gas can that leaked vapors and caused an explosion in their home.

"This investigation is long overdue," Moore said. "Parents need to know how to make their homes safe, and the CPSC has a responsibility to protect consumers. It is our duty to make families aware of the dangers gas cans pose, and offer alternatives such as childproof caps."

Dr. Christopher Kennedy of Children's Mercy Hospital in Kansas City reported seeing roughly 25 child victims of gasoline burns in a one-year period. Of the 25 children, 11 died as a result of their burn injuries. The average age of victim was 2.7 years. Kennedy's research showed that in all 25 cases, the gasoline cans causing accidents were lacking childproof caps.

In the past, the CPSC has argued that gas cans are sold empty, and therefore the CPSC doesn't have the authority to regulate them. Moore worked with representatives of an industry working group and secured their support for his legislation.

Moore's bill is H.R. 688. The CPSC evaluation is expected to take two months.

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 (in leave of absence, 107th Congress)

MR. THOMAS MOORE  
 ACTING CHAIRMAN  
 CONSUMER PRODUCT SAFETY COMMISSION  
 4330 EAST-WEST HIGHWAY ROOM 720  
 BETHESDA MD 20814

**Congress of the United States**  
**House of Representatives**

DENNIS MOORE  
 Third District, Kansas  
 www.house.gov/moore

July 17, 2002

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 MIAMI COUNTY  
 PHONE: 913-234-4122

Dear Acting Chairman Moore:

I am writing to express my strong support for the CPSC's prompt consideration of an appropriate standard addressing the need for manufacturers of gasoline containers to equip such containers with childproof caps.

On October 25, 1999, I introduced H.R. 3136, the Children's Gasoline Burn Prevention Act, in response to the Consumer Product Safety Commission's [CPSC] interpretation of the Poison Prevention Packaging Act. In an August 16, 1999, letter to Senator Pat Roberts of Kansas, the CPSC indicated that it does not require gasoline cans to have childproof caps due to the definition of "package" in the aforementioned Act. According to the August 16 letter, in order for the CPSC to require a childproof cap, "the 'package' must 'contain' a 'hazardous substance,'" as defined in the Federal Hazardous Substances Act. Because gas cans do not contain gasoline at the point of sale, and therefore do not contain a "hazardous substance," the CPSC apparently cannot mandate a childproof cap on gasoline containers. Please find enclosed a copy of the August 16 letter.

It has come to my attention recently, however, that there exist competing standards in the U.S. Code that may allow the CPSC to require empty gasoline containers to have childproof caps. According to a May 13, 2002, memo drafted by the CPSC's Office of General Counsel, empty gasoline containers "would likely be considered 'consumer products'" under the Consumer Product Safety Act, and could therefore be required, by a mandatory standard, to be equipped with childproof caps. Please find enclosed a copy of this memo. As the memo indicates, the CPSC has statutory authority to issue a mandatory standard if the Commission finds that empty gasoline containers present an unreasonable risk of injury. Please find enclosed a copy of a letter I received from KCTV-5 in Kansas City, MO, that mentions the death of a four year old boy in Leavenworth, KS, that was caused in large part by a gasoline container that was not equipped with a childproof cap.

I believe that empty gasoline containers, which are bought and sold for the sole purpose of containing a hazardous substance, present a foreseeable and unreasonable risk of injury or death, and should therefore be subject to a standard requiring childproof caps on such containers. The Senate Commerce, Science and Transportation Committee scheduled a markup of the

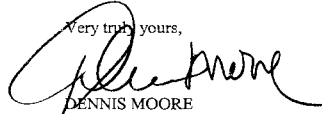


Children's Gasoline Burn Prevention Act, introduced in the Senate by Senator Jean Carnahan of Missouri, for the week of May 13. It is my understanding that the issuance of a standard by the CPSC would preclude the need for legislative action on this matter, and as a result the Committee postponed consideration of this measure.

I urge the Consumer Product Safety Commission to develop an appropriate standard requiring gasoline containers to be equipped with childproof caps within 60 days. Please advise me as to whether you intend to begin such action. I am also interested in learning what empirical evidence, if any, is available to the CPSC with regard to this issue or what steps, if any, the CPSC intends to take in this regard and what your intended time frame for such action would be.

Thank you for your consideration, and I look forward to hearing from you on this matter.

Very truly yours,



DENNIS MOORE  
Member of Congress

DM/al  
Enclosures



U.S. CONSUMER PRODUCT SAFETY COMMISSION  
WASHINGTON, D.C. 20207

August 16, 1999

The Honorable Pat Roberts  
302 Senate Hart Office Building  
Washington, DC 20510-1605

Dear Senator Roberts:

This will respond to the letter from Mr. Stan Cramer and Ms. Lisa Wade of station KCTV in Kansas City concerning the safety of gas cans. It is true the CPSC does not require that gasoline cans have a child-proof cap. This is due to the definition of "package" in the Poison Prevention Packaging Act, 15 U.S.C. 1471(3). Under the law, in order for the Commission to require a child-proof cap, the "package" must "contain" a "hazardous substance" as defined in Section 2(f) of the Hazardous Substances Act, 15 U.S.C. 1261(f). Since a new gas can does not "contain" the "hazardous substance" at the time of initial sale, the CPSC cannot mandate a child-proof cap. The fault is not in the CPSC regulations, it is in the way the law was written in 1970.

The Commission, however, recognizes the danger that gas cans pose. Accordingly, our staff is working closely with a gasoline industry task group to develop a possible voluntary standard for industry use. They are currently working on test methods and options for such a voluntary standard. We certainly believe this is a safety problem that should be addressed.

In reference to the specific situation cited in their letter, in which the vapors from a spilled gas can ignited a hot water heater, the Commission has been working with the water heater industry to develop a water heater that will be able to prevent ignition from gas vapors. One company will offer such a heater for sale in October and other companies are expected to follow shortly.

Sincerely,

A handwritten signature in cursive script that reads "Robert Wager".

Robert Wager  
Director of Congressional Relations



UNITED STATES  
CONSUMER PRODUCT SAFETY COMMISSION  
WASHINGTON, DC 20207

**Memorandum**

Date: May 13, 2002

TO : Michael Goughsha, Acting Director Congressional Relations

THROUGH: Melissa Hampshire, Acting General Counsel

FROM: Stephen Lemberg, Assistant General Counsel

SUBJECT : Gasoline Container Legislation

You asked me to review legislation entitled the "Children's Gasoline Burn Prevention Act." The purpose of the legislation is to authorize the Consumer Product Safety Commission to issue regulations under the Poison Prevention Packaging Act (15 U.S.C. sec. 1471) (PPPA) that would require gasoline containers to be child resistant. It attempts to accomplish this by amending the PPPA definition of "package" in 15 U.S.C. sec. 1471(3) by adding a "portable gasoline container" to the definition. However, adding this to the PPPA would not accomplish the legislation's purpose, as a pre-filled container of gasoline would already be considered a package.

The PPPA authorizes the Commission to require hazardous substances, defined in the Federal Hazardous Substances Act at 15 U.S.C. sec. 1261(f), to be packaged in child resistant packaging. In order to require a hazardous substance to be packaged in child resistant packaging, the Commission must find that

- (1) the degree or nature of the hazard to children in the availability of such substance, by reason of its packaging, is such that special packaging is required to protect children from serious personal injury or serious illness resulting from handling, using, or ingesting such substance, and
  - (2) the special packaging to be required by such standard is technically feasible, practicable, and appropriate for such substance."
- 15 U.S.C. sec. 1472(a).

The PPPA does not authorize the Commission to regulate empty containers that a consumer buys and later fills with a hazardous substance. See 15 U.S.C. sec. 1471(2)(A) and sec. 1472(a)(1). Gasoline containers pre-filled with gasoline when they are sold to consumers could already be regulated under the PPPA as packaging of a hazardous substance. As we understand it, gasoline containers are sold empty to consumers and gasoline is sold to consumers who pump it into their own gasoline containers.

Additionally, we would point out, that empty gasoline containers would likely be considered "consumer products" under the Consumer Product Safety Act, and could presumably be made subject by regulation to a standard if the Commission found that they presented an unreasonable risk of injury.

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November 10, 1999

Congressman Dennis Moore  
 CONGRESS OF THE UNITED STATES  
 HOUSE OF REPRESENTATIVES  
 Third District, Kansas  
 506 Cannon House Office Building  
 Washington, DC 20515-1603

Congressman Moore:

Re: Your letter of September 24, 1999 and my response of October 3, 1999

The Closures Task Group met last week and unitedly decided to support your draft bill enabling the Consumer Products Safety Commission to require child-resistant caps for portable gasoline containers.

Please move forward with this matter authorizing the establishment of a standard for special packaging of portable gasoline containers under section 3 of the Poison Prevention Packaging Act (15 U.S.C. 1472)

Best Regards,

Verl J. Law  
 BLITZ U.S.A. Representative for Child Resistance Closures



U.S. CONSUMER PRODUCT SAFETY COMMISSION  
WASHINGTON, DC 20207

Thomas H. Moore  
Acting Chairman

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July 31, 2002

The Honorable Dennis Moore  
U.S. House of Representatives  
431 Cannon House Office Building  
Washington, DC 20515

Dear Congressman Moore:

This is in response to your letter dated July 17, 2000, regarding child-resistant caps for portable gasoline containers. In response to the concerns you raised, CPSC staff plans to begin an activity to assess the need for requirements for child-resistant caps for portable gasoline containers under the Consumer Product Safety Act. Staff will:

- Review death and injury data for children related to incidents involving gasoline containers to determine what information is available regarding how the child interacted with and/or gained access to the container. We will assign cases for follow up where additional information is needed.
- Gather information to help assess the extent to which new gasoline containers conform to the child resistance requirements in the new ASTM voluntary standard. (A provisional voluntary standard (ASTM PS 119-01) was approved on 2/1/2001. The standard establishes requirements for child-resistant portable gasoline containers intended for use by consumers.) We will continue to work with ASTM to address issues as the provisional standard is converted to a full consensus standard.
- Obtain information about the gasoline container market and potential costs associated with possible new requirements.

In addition, we will continue to work with the water heater industry as they develop new water heaters that will resist igniting flammable vapors. CPSC staff expects that these new water heaters will be on the market in 2003.

Thank you for your interest in this area. When the assessment is completed, CPSC staff will be in contact with your office to let you know what the next step will be in this process. If you have any further question, please feel free to contact my staff at 301-504-0515.

Sincerely,

A handwritten signature in dark ink, appearing to read "Tom Moore", is written over the typed name and title.

Thomas H. Moore  
Acting Chairman

Mr. MARKEY. I thank you very much. And I thank you, Mr. Chairman, for coming in to see us today. You have one of the greatest jobs in the government. You can do so much good, and I hope that in your tenure you take full advantage of all the opportunities which are going to be presented to you.

Mr. STRATTON. Thank you.

Mr. STEARNS. I thank my colleague and I thank my other colleagues for their participation. And, Mr. Stratton, you have—as I understand it, other than your confirmation hearing, this is really your first congressional hearing. So congratulations. You went through, passed with flying colors, and we appreciate your participation—you and your staff who have been taking voluminous notes behind you. So I am sure they will have lots of information to give you. So again, thank you for coming and we look forward to seeing you and talking with you again.

Mr. STRATTON. Thank you, Mr. Chair.

Mr. STEARNS. The committee is adjourned.

[Whereupon, at 4:23 p.m., the subcommittee was adjourned.]

